No. 17-1077

In the Supreme Court of the United States

FRANCIS V. LORENZO,
Petitioner,

v.

SECURITIES AND EXCHANGE COMMISSION,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

JOINT APPENDIX

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August 20, 2018

Petition for Writ of Certiorari filed January 26, 2018
Petition for Writ of Certiorari granted June 18, 2018

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The following opinions, decisions, judgments, and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the Petition for Certiorari:

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RELEVANT DOCKET ENTRIES

U.S. Securities and Exchange Commission
Administrative Proceeding File No. 3-15211

Lorenzo, et al. v. Charles Vista, LLC

Release Date	Release Number	Other Release Numbers	Name of Document
Feb. 15, 2013	33-9385	34-68943	Order Instituting Administrative and Cease-and-Desist Proceedings and Notice of Hearing
Mar. 22, 2013	33-9385	34-68943	Resp G Lorenzo's Answer
Mar. 22, 2013	33-9385	34-68943	Resp Charles Vista's Answer
Aug. 13, 2013	33-9385	34-68943	Resps. Gregg C. Lorenzo and Charles Vista, LLC's Pre-Hearing Brief
Aug. 13, 2013			Division's Prehearing Brief
Sep. 3, 2013	AP-831		Stay Order
Sep. 6, 2013	AP-849		Prehearing Order
Oct. 30, 2013			Division's Proposed Findings of Fact and Conclusions of Law

Nov. 20, 2013	33-9480	34-70904	Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order
Nov. 26, 2013			Francis V. Lorenzo's Proposed Findings of Fact and Conclusions of Law
Dec. 31, 2013	ID-544		Initial Decision
Jan. 27, 2014			Francis V. Lorenzo's Petition for Review of Initial Decision
Feb. 4, 2014			Division's Cross Petition for Review of Initial Decision
Feb. 18, 2014			Resp. Frank V. Lorenzo's Response to Division's Cross Petition for Review of Initial Decision
Feb. 20, 2014	34-71584		Order Granting Petitions for Review and Scheduling Briefs
Mar. 24, 2014			Brief in Support of Petition for Review of Respondent Francis V. Lorenzo

Apr. 22, 2014			Division's Memorandum of Law in Opposition to Respondent Francis V. Lorenzo's Appeal, and in Support of the Division's Cross-Appeal, from Initial Decision Release No. 544
May 7, 2014			Reply Brief in Support of Petition for Review of Respondent Francis V. Lorenzo and in Opposition to the Division's Cross-Appeal
Aug. 15, 2014	34-72856		Order Appointing Tax Administrator
Jan. 16, 2015			Respondent Frank Lorenzo's Notice of Supplemental Authority
Jan. 21, 2015			Division's Response to Respondent Frank Lorenzo's Notice of Supplemental Authority
Feb. 24, 2015	33-9732	34-74364	Order Scheduling Oral Argument

Mar. 30, 2015	34-74607		Notice of Proposed Plan of Distribution and Opportunity for Comment
Apr. 29, 2015	33-9762	34-74836	Cease-and-Desist Proceeding
May 12, 2015			Motion for Reconsideration Submitted On Behalf of Respondent Francis V. Lorenzo
May 28, 2015	34-75059		Extension Order
Jun. 3, 2015	33-9803	34-75103	Order Denying Lorenzo's Motion for Reconsideration
Jan. 5, 2016	34-76837		Notice of Amended Proposed Plan of Distribution and Opportunity for Comment
Dec. 12, 2017	33-10447	34-82307	Order Scheduling Briefs
Jan. 9, 2018			Division's Opposition to Respondent Francis V. Lorenzo's Motion to Stay the Commission's Order Scheduling Briefs

Jan. 11, 2018			Respondent Francis V. Lorenzo's Brief Regarding Sanctions
Jan. 29, 2018			Division's Opposition to Respondent Lorenzo's Brief Regarding Sanctions, w/Ex. 1
Feb. 9, 2018	34-82677		Order Approving Amended Plan of Distribution
Feb. 21, 2018	33-10460	34-82755	Order Denying Stay
Feb. 26, 2018			Respondent Lorenzo's Reply Brief Regarding Sanctions
Jun. 25, 2018	34-83502		Order Directing Disbursement of Fair Fund

RELEVANT DOCKET ENTRIES

United States Court of Appeals for District of Columbia Circuit
No. 15-1202

Francis Lorenzo v. SEC

07/01/2015	PETITION FOR REVIEW CASE docketed. [15-1202] [Entered: 07/09/2015 04:00 PM]
07/01/2015	PETITION FOR REVIEW filed [1561795] by Francis V. Lorenzo of a decision by federal agency [Service Date: 07/01/2015] Disclosure Statement: Attached; Certificate of Parties: Not Applicable to this Filing. [15-1202] [Entered: 07/09/2015 04:03 PM]
07/09/2015	CERTIFIED COPY [1561798] of Petition for Review sent to respondent [1561795-2] [15-1202] [Entered: 07/09/2015 04:05 PM]
07/09/2015	CLERK'S ORDER filed [1561800] directing party to file initial submissions: PETITIONER docketing statement due 08/10/2015. PETITIONER certificate as to parties, etc. due 08/10/2015. PETITIONER statement of issues due 08/10/2015. PETITIONER underlying decision due 08/10/2015. PETITIONER deferred appendix statement due 08/10/2015. PETITIONER procedural motions due 08/10/2015. PETITIONER dispositive motions due 08/24/2015;

	directing party to file initial submissions: RESPONDENT entry of appearance due 08/10/2015. RESPONDENT procedural motions due 08/10/2015. RESPONDENT certified index to record due 08/24/2015. RESPONDENT dispositive motions due 08/24/2015 [15-1202] [Entered: 07/09/2015 04:07 PM]
07/23/2015	ENTRY OF APPEARANCE [1563997] filed by Benjamin Lawrence Schiffrin on behalf of Respondent SEC. [15-1202] (Schiffrin, Benjamin) [Entered: 07/23/2015 11:57 AM]
08/24/2015	CERTIFIED INDEX TO RECORD [1569373] filed by SEC [Service Date: 08/24/2015] [15-1202] (Schiffrin, Benjamin) [Entered: 08/24/2015 12:56 PM]
08/25/2015	CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES [1569704] filed by Francis V. Lorenzo [Service Date: 08/25/2015] [15-1202] (Heim, Robert) [Entered: 08/25/2015 04:33 PM]
08/25/2015	DOCKETING STATEMENT [1569707] filed by Francis V. Lorenzo [Service Date: 08/25/2015] [15-1202] (Heim, Robert) [Entered: 08/25/2015 04:34 PM]
08/25/2015	STATEMENT OF ISSUES [1569709] filed by Francis V. Lorenzo [Service Date: 08/25/2015] [15-1202] (Heim, Robert) [Entered: 08/25/2015 04:36 PM]

08/25/2015	STATEMENT OF INTENT REGARDING APPENDIX DEFERRAL [1569712] filed by Francis V. Lorenzo [Service Date: 08/25/2015] Intent: AppxDeferred [15-1202] (Heim, Robert) [Entered: 08/25/2015 04:39 PM]
08/25/2015	UNDERLYING DECISION IN CASE submitted [1569713] by Francis V. Lorenzo [Service Date: 08/25/2015] [15-1202] (Heim, Robert) [Entered: 08/25/2015 04:41 PM]
08/25/2015	UNOPPOSED MOTION filed [1569714] by Francis V. Lorenzo to extend time to file initial submissions to 08/25/2015. [Service Date: 08/25/2015] Pages: 1-10. [15-1202] (Heim, Robert) [Entered: 08/25/2015 04:47 PM]
08/26/2015	CLERK'S ORDER filed [1569758] granting motion to extend time [1569714-2]. Petitioner's initial submissions are deemed timely filed. [15-1202] [Entered: 08/26/2015 10:51 AM]
09/10/2015	CLERK'S ORDER [1572271] filed setting briefing schedule: PETITIONER Brief due 10/20/2015. RESPONDENT Brief due on 11/19/2015. PETITIONER Reply Brief due 12/03/2015. DEFERRED APPENDIX due 12/10/2015. PETITIONER Final Brief due 12/24/2015. RESPONDENT Final Brief due on 12/24/2015. PETITIONER Final Reply Brief due 12/24/2015 [15-1202] [Entered: 09/10/2015 10:47 AM]

10/20/2015	PETITIONER BRIEF [1579035] filed by Francis V. Lorenzo [Service Date: 10/20/2015] Length of Brief: 6,344. [15-1202] (Heim, Robert) [Entered: 10/20/2015 03:42 PM]
11/19/2015	RESPONDENT BRIEF [1584433] filed by SEC [Service Date: 11/19/2015] Length of Brief: 9,965 words. [15-1202] (Schiffrin, Benjamin) [Entered: 11/19/2015 02:30 PM]
12/02/2015	NOTICE [1586456] filed by Francis V. Lorenzo to substitute attorney Joshua Rose substituted by Steven L. Herrick [Service Date: 12/02/2015] [15-1202] (Herrick, Steven) [Entered: 12/02/2015 05:48 PM]
12/03/2015	PETITIONER REPLY BRIEF [1586680] filed by Francis V. Lorenzo [Service Date: 12/03/2015] Length of Brief: 3,709. [15-1202] (Heim, Robert) [Entered: 12/03/2015 03:41 PM]
12/10/2015	*JOINT* APPENDIX [1587893] filed by Francis V. Lorenzo and SEC. [Volumes: 2] [Service Date: 12/10/2010] [15-1202] (Heim, Robert) [Entered: 12/10/2015 12:00 PM]
12/24/2015	RESPONDENT FINAL BRIEF [1590524] filed by SEC [Service Date: 12/24/2015] Length of Brief: 9,867 Words. [15-1202] (Schiffrin, Benjamin) [Entered: 12/24/2015 08:49 AM]

12/24/2015	PETITIONER FINAL BRIEF [1590601] filed by Francis V. Lorenzo [Service Date: 12/24/2015] Length of Brief: 6,344. [15-1202] (Heim, Robert) [Entered: 12/24/2015 11:18 AM]
12/24/2015	PETITIONER FINAL REPLY BRIEF [1590603] filed by Francis V. Lorenzo [Service Date: 12/24/2015] Length of Brief: 3,709. [15-1202] (Heim, Robert) [Entered: 12/24/2015 11:19 AM]
01/13/2016	LETTER [1593301] filed by SEC advising of arguing counsel's availability for oral argument. [Service Date: 01/13/2016] [15-1202] (Schiffrin, Benjamin) [Entered: 01/13/2016 12:29 PM]
02/17/2016	LETTER [1599206] filed by Francis V. Lorenzo advising of arguing counsel's availability for oral argument. [Service Date: 02/17/2016] [15-1202] (Heim, Robert) [Entered: 02/17/2016 02:45 PM]
03/16/2016	LETTER [1604245] filed by Francis V. Lorenzo advising of arguing counsel's availability for oral argument. [Service Date: 03/16/2016] [15-1202] (Heim, Robert) [Entered: 03/16/2016 02:55 PM]
04/22/2016	LETTER [1610060] filed by Francis V. Lorenzo advising of arguing counsel's availability for oral argument. [Service Date: 04/22/2016] [15-1202] (Heim, Robert) [Entered: 04/22/2016 04:01 PM]

04/26/2016	NOTICE [1610406] filed by Francis V. Lorenzo to substitute attorney Steven L. Herrick substituted by Stephanie Rapp-Tully [Service Date: 04/26/2016] [15-1202] (Rapp-Tully, Stephanie) [Entered: 04/26/2016 09:26 AM]
06/17/2016	CLERK'S ORDER [1620136] filed scheduling oral argument on Thursday, 09/15/2016. [15-1202] [Entered: 06/17/2016 04:35 PM]
06/21/2016	ENTRY OF APPEARANCE [1620779] filed by Martin V. Totaro on behalf of Respondent SEC. [15-1202] (Totaro, Martin) [Entered: 06/21/2016 02:56 PM]
08/19/2016	LETTER [1631250] filed by SEC pursuant to FRAP 28j advising of additional authorities [Service Date: 08/19/2016] [15-1202] (Totaro, Martin) [Entered: 08/19/2016 02:35 PM]
09/02/2016	PER CURIAM ORDER [1633721] filed allocating oral argument time as follows: Petitioner - 15 Minutes, Respondent - 15 Minutes. One counsel per side to argue; directing party to file Form 72 notice of arguing attorney by 09/08/2016 [15-1202] [Entered: 09/02/2016 04:08 PM]
09/02/2016	FORM 72 submitted by arguing attorney, Martin Totaro, on behalf of Respondent SEC *(For Internal Use Only: Form is restricted to protect counsel's personal contact information)*. [15-1202] (Totaro, Martin) [Entered: 09/02/2016 05:10 PM]

09/08/2016	FORM 72 submitted by arguing attorney, Robert Heim, on behalf of Petitioner Francis V. Lorenzo *(For Internal Use Only: Form is restricted to protect counsel's personal contact information).* [15-1202] (Heim, Robert) [Entered: 09/08/2016 12:05 PM]
09/15/2016	ORAL ARGUMENT HELD before Judges Griffith, Kavanaugh and Srinivasan. [15-1202] [Entered: 09/16/2016 04:34 PM]
02/23/2017	LETTER [1662826] pursuant to FRAP 28j advising of additional authorities filed by SEC [Service Date: 02/23/2016] [15-1202] (Totaro, Martin) [Entered: 02/23/2017 08:09 PM]
07/06/2017	TRANSCRIPT [1682985] of oral argument [15-1202] [Entered: 07/07/2017 12:36 PM]
07/28/2017	NOTICE [1686390] to substitute attorney Stephanie Rapp-Tully substituted by Donna Williams Rucker filed by Francis V. Lorenzo [Service Date: 07/28/2017] [15-1202] (Rucker, Donna) [Entered: 07/28/2017 04:20 PM]
09/29/2017	PER CURIAM JUDGMENT [1695569] filed that the petition for review be granted in part, the sanctions imposed by the Commission be vacated, and the matter be remanded for further consideration for the reasons in the accompanying opinion . Before Judges:

	Griffith, Kavanaugh, and Srinivasan. [15-1202] [Entered: 09/29/2017 09:56 AM]
09/29/2017	OPINION [1695572] filed (Pages: 34) for the Court by Judge Srinivasan, DISSENTING OPINION (Pages: 12) by Judge Kavanaugh. [15-1202] [Entered: 09/29/2017 09:59 AM]
09/29/2017	CLERK'S ORDER [1695574] filed withholding issuance of the mandate. [15-1202] [Entered: 09/29/2017 10:00 AM]
11/21/2017	MANDATE ISSUED to Securities and Exchange Commission. [15-1202] [Entered: 11/21/2017 01:42 PM]
12/26/2017	LETTER [1711038] received from the Clerk of the Supreme Court of the United States notifying this court that the time for filing a petition for writ of certiorari has been extended to: 01/26/2018. [15-1202] [Entered: 01/02/2018 09:35 AM]
01/31/2018	LETTER [1716356] received from the Clerk of the Supreme Court of the United States notifying this court of the following activity in the case before it: A petition for writ of certiorari was filed and placed on the docket on 01/31/2018 as No. 17-1077. [15-1202] [Entered: 02/02/2018 06:21 PM]
06/18/2018	LETTER [1736534] received from the Clerk of the Supreme Court of the United States notifying this court of the following activity in case No. 17-1077:

	The petition for writ of certiorari was granted on 06/18/2018. [15-1202] [Entered: 06/18/2018 03:19 PM]

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9385 / February 15, 2013

SECURITIES EXCHANGE ACT OF 1934
Release No. 68943 / February 15, 2013

ADMINISTRATIVE PROCEEDING
File No. 3-15211

[Filed February 15, 2013]

In the Matter of	)
	)
GREGG C. LORENZO,	)
FRANCIS V. LORENZO, and	)
CHARLES VISTA, LLC,	)
	)
Respondents.	)
	)

ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933, AND SECTIONS 15(b), 21B AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934

I.

The Securities and Exchange Commission ("Commission" or "SEC") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act

of 1933 ("Securities Act"), and Sections 15(b), 21B and 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Gregg C. Lorenzo ("Gregg Lorenzo"), Francis V. Lorenzo ("Frank Lorenzo"), and Charles Vista, LLC ("Charles Vista") (collectively, "Respondents").

II.

After an investigation, the Division of Enforcement alleges that:

1. Beginning in or about September 2009, Gregg Lorenzo, Frank Lorenzo, and Charles Vista, a broker-dealer controlled by Gregg Lorenzo, made fraudulent misrepresentations to several customers of Charles Vista to induce them to invest in convertible debentures issued by a start-up waste management company called Waste2Energy Holdings, Inc. ("W2E").

2. In telephone conversations with at least three Charles Vista customers, Gregg Lorenzo attempted to convince them to purchase the highly risky W2E debentures by (a) making false, misleading, and unfounded statements designed to create the impression that the debentures were less risky than they actually were, and (b) making unfounded positive predictions about the upside of the investment, including the future price of W2E stock and the likelihood of it trading on the NASDAQ.

3. Frank Lorenzo also engaged in fraudulent efforts to sell the W2E debentures to Charles

Vista customers, by sending at least two Charles Vista customers emails containing false and/or misleading statements concerning W2E's assets and alleged contracts.

4. Charles Vista committed fraud through the actions of Gregg Lorenzo and Frank Lorenzo, described above.

A. RESPONDENTS

Gregg Lorenzo

5. Gregg Lorenzo, age 30, is the president and indirect owner of Charles Vista, a registered broker-dealer doing business in Staten Island, New York. Lorenzo's indirect ownership stems from his status as the sole shareholder and managing member of GJL Holdings, LLC ("GJL"), a New York limited liability company that wholly owns Charles Vista. From April 2002 to the present, Gregg Lorenzo has been a registered representative associated with various broker-dealers registered with the Commission, and is currently associated with Charles Vista. Lorenzo holds the Series 7, Series 24, and Series 63 licenses. He resides in Staten Island, New York.

6. In September 2005, Gregg Lorenzo joined Mercer Capital ("Mercer"), a now defunct New York broker-dealer. Shortly afterward, Gregg Lorenzo settled civil fraud and other charges with the State of Montana arising from his prior employment at a different brokerage firm. He also agreed to withdraw his securities license in Montana for two years and pay a $35,000 fine. In a separate matter, in February 2007, the National Association of Securities Dealers found

that Mercer and Gregg Lorenzo had violated agreements with the New Jersey and Indiana securities authorities, which had imposed strict supervision requirements on Gregg Lorenzo at Mercer.

7. In January 2008, Gregg Lorenzo left Mercer and joined John Thomas Financial, a New York-based registered broker-dealer. In February 2008, Gregg Lorenzo and John Thomas Financial entered into a consent order with the Iowa Securities and Regulated Industries Bureau requiring heightened supervision of Gregg Lorenzo and precluding him from performing supervisory responsibilities for two years.

8. In February 2009, through an entity that he owned, Gregg Lorenzo purchased a registered broker-dealer shell company called DC Evans and Company LLC ("DC Evans") and renamed it Charles Vista, LLC. Gregg Lorenzo continues to operate Charles Vista as a broker-dealer in Staten Island, N.Y. Although the indirect owner of the firm, Gregg Lorenzo officially has no managerial title and is listed only as a registered representative at Charles Vista. Despite his lack of a managerial title, however, Gregg Lorenzo in fact controlled Charles Vista.

9. In a July 16, 2009 Agreement and Order with the Idaho Department of Finance, *Idaho v. John Thomas Financial et al.*, Docket No. 2008-7-11, the Idaho Securities Division sanctioned John Thomas Financial and Gregg Lorenzo, among others, for negligently failing to disclose the Iowa consent order in his form U-4. The order directed Gregg Lorenzo to withdraw his application for registration as an investment adviser representative and to pay a civil penalty of $1,250.

10. On December 16, 2009, the Financial Industry Regulatory Authority ("FINRA") denied Charles Vista's application to transfer membership from DC Evans to Charles Vista. On August 10, 2010, FINRA upheld its earlier decision, citing Lorenzo's regulatory history.

Frank Lorenzo

11. Frank Lorenzo, age 51, resides in Westwood, New Jersey and is currently registered with Hunter Wise Securities, LLC, a registered broker-dealer based in Irvine, California. Frank Lorenzo works at the firm's New York City office. Frank Lorenzo holds Series 7 and 63 licenses. He began working at Mercer Capital in February 2007 and then followed Gregg Lorenzo to John Thomas Financial and Charles Vista. Frank Lorenzo acted as an investment banker at Mercer Capital, John Thomas Financial and Charles Vista.

Charles Vista

12. Charles Vista is a registered broker-dealer controlled by Gregg Lorenzo. Frank Lorenzo was the head of investment banking from the opening of the firm until his departure in January 2010.

B. OTHER RELEVANT ENTITIES

13. According to W2E's SEC filings,W2E is a Delaware corporation formed in 2008 as Maven Media Holdings, Inc. ("Maven Media"). In May 2009, Maven Media's wholly-owned subsidiary, Waste2Energy Acquisition Co., acquired Waste2Energy, Inc., a privately held Delaware corporation that held 95% of the issued and outstanding shares of EnerWaste International Corporation ("EWI"), a company that

manufactured a so-called "Batch Oxidation System" for converting waste into energy. EWI owned 50% of EnerWaste Europe, Ltd. ("EWE"), a company based in Iceland that operated a waste processing facility in that country. In April 2008, Waste2Energy, Inc. formed a wholly owned subsidiary, EnerWaste, Inc. to acquire the other 50% of the stock of EWE. In July 2009, Maven Media (which prior to the acquisition of Waste2Energy, Inc. had been a shell corporation with publicly registered stock) changed its name to Waste2Energy Holdings, Inc. Shortly thereafter, W2E's stock began to be quoted on the Over-The-Counter Bulletin Board ("OTCBB").

C. W2E's OPERATIONS AND FINANCIAL CONDITION

14. According to W2E's SEC filings, Waste2Energy, Inc. was incorporated in Delaware on April 10, 2007. On August 27, 2007, Waste2Energy, Inc. filed a Form D notice that it was engaged in a $6 million private offering of securities pursuant to Rule 506 of Regulation D, 17 C.F.R. § 230.506. According to its September 4, 2007 private placement memorandum, Waste2Energy, Inc. was formed to acquire 95% of the "issued and outstanding shares of capital stock" of EWI.

15. According to W2E's SEC filings, Waste2Energy, Inc. completed the EWI acquisition in or about November 2007, thereby acquiring 50% of EWE. Through EnerWaste, Inc., Waste2Energy acquired the remaining 50% of the stock of EWE. Waste2Energy, Inc.'s total purchase price for EWE was $8 million, which it paid in roughly equal parts in cash, W2E stock and a W2E promissory note.

16. According to W2E's SEC filings, when Waste2Energy, Inc. acquired EWE, EWE had a contract with Ascot Environmental Ltd. ("Ascot") to develop a waste-to-energy facility in the Dargaval area of Dumfries, Scotland. In 2008, W2E took over this contract through its Isle of Man subsidiary, Waste2 Energy Limited.

17. On June 30, 2009, W2E filed a Form 8-K with the SEC that contained its first "unaudited" public post-merger financial statements. The financial statements stated, among other things, that, as of December 31, 2008, W2E had total assets of $13,987,764, total liabilities of $9,563,673, and that W2E "had been operating at a substantial operating loss each year since inception." Of the nearly $14 million in assets as of December 31, 2008, W2E attributed $10 million to "intangibles" (including a $1.9 million deferred tax liability), $0.5 million to goodwill, and $3 million to "cost and estimated earnings of billings on uncompleted contracts." The Form 8-K also disclosed that EWE had been placed in involuntary receivership in February 2009. The filing listed $28,171 in cash as of December 31, 2008 and further disclosed that W2E's current business operations were dependent on generating substantial revenues from one customer, Ascot, which subjected W2E to "significant financial and other risks in the operation of our business." The anticipated revenue from the contract with Ascot, at the time it was entered into, was less than $15 million, and by the time the Form 8-K was filed in June 2009, the contract was operating at a net loss for W2E. Furthermore, by September 2009, W2E had received all, or virtually all, of the payments it was entitled to under its contract with Ascot.

18. On October 1, 2009, W2E filed an amended Form 8-K ("Form 8K/A") and its Form 10-Q for the period ended June 30, 2009. The financial statements contained in the October 1 filings included "unaudited" numbers for the period ended June 30, 2009 and, apparently, audited numbers for the period ended March 31, 2009. For the period ended March 31, 2009, W2E reported total assets of $367,581 (including $27,360 in cash), total liabilities of $6,676,163, and an operating loss of $1,972,637. For the period ended June 30, 2009, W2E reported total assets of $660,408 (including $54,543 in cash), total liabilities of $3,942,356, and an operating loss of $1.5 million. The alleged $11 million in intangible assets and goodwill that W2E had reported in the Form 8-K that it filed June 30, 2009 were no longer included on the balance sheet that appeared in its October 1, 2009 Form 10-Q and Form 8-K/A filings.

19. W2E's October 1, 2009 Form 8-K/A explained the complete write-off of $11 million in intangibles and goodwill as follows:

> In January 2009, the Company engaged a consultant to assist in the evaluation of the Dargavel project [for Ascot] due to continued delays and concerns over the design and plans for the facility, as well as the progress and ability to complete the project in accordance with the contract. The initial plans, designs, and knowhow that were the foundation of the project plan also served as the basis of the Technology assets we acquired with the purchase of [EWE]. The conclusion reached was that the Company

> needed to completely change the project plans, technology and controls that would enable the company to deliver the project according to the contract specifications. As a result, management made a determination that the value of the assets acquired were of no value and the Company's IP platform would be built on a new set of plans, design specifications and technology that was developed starting in January through the expected conclusion of the project in late 2009. As a result, an impairment charge in the amount of $10,538,029 was recorded to write-off the value of the Technology.
>
> Additionally, when the Company acquired [EWE], Goodwill was assigned based on the value of the workforce. At the time of the Iceland economic collapse and subsequent termination of the contract between EWE and the company, and the signing of the new contract with another Company subsidiary, the majority of the workforce where the value was place did not continue on with the Dargavel project or any other efforts supporting the continued development of the Technology and knowhow of the business. As a result of the above, management determined that Goodwill was impaired and an impairment in the amount of $496,594 was recorded to write-off the value of the Goodwill.

20. On November 16, 2009, W2E filed a Form 10-Q for the period ending September 30, 2009. In this

filing, W2E reported that as of September 30, 2009, the value of all of W2E's assets was $905,582, its total liabilities were $6,510,247, and it had an accumulated deficit of $23,675,381. The value of contracts receivable was listed as zero and unbilled amounts due on uncompleted contracts was $499,857.

D. W2E's $15 MILLION DEBENTURE OFFERING

21. From in or about September 2009 through May 2010, Gregg Lorenzo's firm, Charles Vista, was the exclusive placement agent for an issuance of 12% W2E debentures, with a maximum issuance amount of $15 million (the "Debentures"). The Debentures were convertible to W2E stock.

22. Charles Vista's financial interest in the Debentures offering was considerable. According to documents attached to some of W2E's SEC filings, Charles Vista was to receive (1) a 10% "commission" on the gross proceeds of all Debentures sales; (2) a 3% "expense allowance" on the same proceeds; (3) a consulting fee of $10,000 per month for twelve months starting "at the initial closing" of the Debentures offering; (4) an "investment banking fee equal to $125,000 for each $2,500,000 of Debentures sold, up to a total of $750,000"; (5) another 13% commission/ expense allowance "upon the exercise of the Warrants issued to the purchasers of the Debentures"; and (6) a "warrant to purchase up to 4.5 %" of W2E's outstanding shares "proportionate to [the] amount of Debentures sold" (at a $.01 exercise price).

23. Charles Vista sent potential investors written materials concerning W2E and the Debentures, including a lengthy private offering memorandum

("POM") prepared by W2E, Charles Vista, and their respective attorneys. The POM stated that the Debentures "are highly speculative in nature, involve a high degree of risk and should be purchased only by persons who can afford to lose their entire investment." The POM also listed a number of individual risks concerning investment in the Debentures.

24. In addition to the POM, investors received, and were required to sign, a subscription agreement that contained risk disclosures similar to the POM.

E. GREGG LORENZO'S FALSE STATEMENTS TO INVESTORS

25. Gregg Lorenzo personally attempted to sell the Debentures to numerous potential investors. In his oral sales pitches to at least three potential investors, Lorenzo made false and misleading statements designed to (i) ameliorate concerns about the investment's downside risk by misrepresenting W2E's financial condition and business prospects; and (ii) make the Debentures' stock conversion feature appear valuable by making baseless predictions about the future price of the company's stock and its future listing on a major exchange.

INVESTOR A

26. Gregg Lorenzo spoke to Investor A several times, including in a recorded telephone conversation on September 23, 2009. During that telephone conversation, Gregg Lorenzo knowingly or recklessly made the following materially false and/or misleading statements to induce Investor A to purchase the Debentures:

(a) Discussing W2E, Gregg Lorenzo falsely told Investor A that "right now they have a contract. They have a contract that's totaling $100 to $200 million, but I don't know how fast they're going to get that money, so I can't really say what type of cash roll they're going to generate."

(b) Gregg Lorenzo made the following statements to assure Investor A that investment in the Debentures was not as risky as the written risk disclosures had made it seem, and that Investor A will "get [his] money back" because W2E allegedly would have "$7 million" in cash to repay debenture holders regardless of its future revenue:

> But I got to tell you this. If this is a private placement, and there weren't protective features in the transaction, and it wasn't somewhat of an insurance policy, I would tell you, you're right, don't do it. But the fact that there is and you get the benefit of having a debenture and it being senior and being in front of everything else that this company has, accrued salary, shareholders, you name it, and it's the only debt the company will have on their book, I mean, I – it's hard really – it's hard to really put this into a very, very risky category despite what those documents read because at the end of the day, . . . this company is still going to have close to $7 million in the bank, and I'm talking no revenue at all.
>
> So I understand where you're coming from, but there is nothing in this market, there is nothing in this industry in my opinion with

you being a client of my firm that can do what this deal can do for you because I'm telling you now, with our reputation on the line, me saying this to you, if you don't want to convert because you feel that the market is not there, the company hasn't executed, you are getting your money back.

They're going to be left with these – close to or exactly the amount of cash that they were given. Now again, I, I'm going to hold them accountable to pay this money back out of revenue.

* * *

But I look at it like this. I'll be honest with you. Based on their burn rate, and what they're going to get left with, they're still going to have close to $7 million in cash. If I have to raise a measly 8 million bucks to help them at worst case scenario, I'm not worried about that. These are the – this is the worst case scenario that I can possibly think of. I just – I just don't see that happening. I, you know, I, I'm sorry. And if they do, I am prepared as the chairman of Charles Vista to make sure that the investors get paid back.

* * *

You know, the odds of you being successful are, are highly likely.

* * *

I also want you to know that this is a very, very strong transaction.

* * *

I will make sure that you get paid back your money in this transaction. I don't believe that you will even take back your money. I have full confidence you will convert this note into stock at a dollar because the stock will be trading at a significant premium with liquidity because the company has executed their business plan.

* * *

And you're going to have a year to watch it for yourself. I don't have to say anything. The proof will be in the pudding, and you'll be able to decide what you want to do. It's like, it's like being able to place a bet and making a decision if you want to keep that bet a year from now.

* * *

But you are getting your money back, and you're going to get your final interest payment, and you are getting your warrants up front, and you'll be able to decide if you want to keep going. That [other] stock cannot offer you that. No public stock can offer you that. It's just not out there.

(c) During the September 23, 2009 telephone call with investor A, Gregg Lorenzo also made the following baseless prediction regarding W2E's alleged

future listing on NASDAQ: "I believe [W2E] will be a NASDAQ trading stock within 12 months. I believe they will meet the listing requirements."

(d) On the same call, Gregg Lorenzo also made equally baseless statements concerning the future price of W2E's stock, into which the Debentures could be converted. He told Investor A that "I have full confidence you will convert this note into stock at a dollar because the stock will be trading at a significant premium with liquidity because [W2E] has executed their business plan." Later in the call, while trying to convince Investor A to invest $75,000 more than he already had decided to invest in the Debentures, Gregg Lorenzo stated that an additional $75,000 means "150,000 more shares in a company that could potentially be $5 to $10 a share within 12 months. And that's what I'm looking at. You're giving up on that, and I just don't want you to do that. 150,000 shares at $5 is almost a million dollars to you. It's 700, it's close to $750,000."

(e) Gregg Lorenzo also told Investor A on September 23, 2009 that he was in possession of favorable non-public information concerning W2E, stating: "I can tell you things that are not even public yet that I shouldn't tell you, but it's not going to make a difference. You're going to want to see these things happen."

(f) Finally, Lorenzo falsely told Investor A on September 23, 2009 that the "debenture [was] senior and being in front of everything else that [W2E] has, accrued salary, shareholders, you name it, and it's the only debt the company will have on their book."

27. Gregg Lorenzo had no reasonable basis for making the statements set forth in paragraph 26 above because, as he knew or recklessly disregarded:

(a) W2E never had a contract for "$100 to $200 million"; its only substantial contract, with Ascot, was worth less than $15 million at the outset, and as of September 23, 2009, when Lorenzo had the call with Investor A, W2E already had received all, or virtually all, payments due under that contract.

(b) W2E's last public filing prior to September 23, 2009 — its May 28, 2009 Form 8-K — reported, not that the company had "$7 million in the bank" as Lorenzo told Investor A, but that (i) as of December 31, 2008, W2E had only $28,171 in cash; and (ii) as of May 28, 2009, the company had only $194,369 in cash. Furthermore, W2E's Form 10-Q for the period that ended June 30, 2009 (filed October 1, 2009) reported that the company had only $54,543 in cash and less than $700,000 in total assets; and W2E's Form 10-Q for the period ended September 30, 2009 (filed November 16, 2009) reported total assets of $905,582, total liabilities of $6,510,247, an accumulated deficit of $23,675,381, contracts receivable valued at zero, and unbilled amounts due on uncompleted contracts at $499,857.

(c) and (d) W2E was an extremely speculative stock — it was a start-up company at an early stage of development, and its financial condition was extremely precarious. Furthermore, on September 23, 2009 — the day that Gregg Lorenzo made his stock price and NASDAQ listing predictions to Investor A — W2E filed a Form 8-K reporting that on August 20, 2009, FINRA had notified the company that if it did not file a

delinquent Form 10-Q by September 21, its stock could be de-listed from the OTCBB, a trading venue with much less demanding listing requirements than the NASDAQ. In addition, the POM reported that (1) the "sole member of our board of directors was a defendant in prior litigation arising [sic] alleging violation of the Federal Securities laws, which may prevent or make more difficult listing on a national exchange and/or NASDAQ"; and, after further describing the litigation, (2) "[t]here can be no assurance that [the Director's] actions and/or involvement in the prior litigation will not negatively impact and/or prevent [W2E's] ability to be listed on an exchange and/or NASDAQ, even if [W2E] were to meet such listing qualifications, which it will not for the foreseeable future."

(e) No "non-public information concerning W2E" existed, and none of W2E's public statements after September 23, 2009 indicate that any such undisclosed favorable information about the company existed on or around September 23, 2009.

(f) As Gregg Lorenzo knew, as of September 23, 2009, W2E had millions of dollars in debt on its books that was senior to the debt W2E was issuing through the Debentures offering.

28. On September 25, 2009 and October 1, 2009, Investor A invested a total of $225,000 in the Debentures.

INVESTOR B

29. In or about September, 2009, Gregg Lorenzo spoke to Investor B concerning the Debentures. During his conversations with Investor B, Lorenzo knowingly or recklessly falsely told investor B that he would make

several times his money if he invested in the Debentures.

30. After speaking to Gregg Lorenzo, Investor B invested $150,000 in the Debentures.

31. Even after Investor B invested $150,000 in the Debentures, Gregg Lorenzo continued to solicit additional money. When Investor B asked Gregg Lorenzo to send him more information, he received an e-mail dated October 2, 2009 that purported to "summarize several key points of the Waste2Energy Holdings, Inc. Debenture Offering." After he received this e-mail, which contained several misrepresentations about W2 (as described in paragraphs 34 through 39 below), Investor B made another $200,000 investment in the Debentures.

INVESTOR C

32. In or about April and May 2010, Gregg Lorenzo made the following false or misleading statements to Investor C, for which there was no reasonable basis. He told Investor C that:

(a) If he invested in the Debentures, Investor C was guaranteed to get the principal invested in the Debentures back plus interest after one year; and

(b) W2E would be doing very well in a year, at which point Investor C would have the option to convert the Debentures into W2E stock.

33. After speaking to Gregg Lorenzo, Investor C invested a total of $125,000 in the Debentures: $25,000 on April 1, 2010 and $100,000 on May 12, 2010.

F. THE FRAUDULENT E-MAILS TO INVESTORS

34. As stated in paragraphs 18-19 above, on October 1, 2009, W2E filed an amended Form 8-K and its Form 10-Q for the period ended June 30, 2009. Those filings stated that W2E had written off almost all of its previously-reported assets (totaling approximately $14 million) as of June 30, 2009, consisting primarily of $11 million in "intangibles" and "goodwill."

35. On October 1 and the morning of October 2, Frank Lorenzo notified Charles Vista's brokers (including Gregg Lorenzo) by email of W2E's October 1, 2009 filings and included links in his email to the W2E filings on the SEC's website.

36. On October 2, 2009, Frank Lorenzo's assistant, acting on behalf of, and at the direction of, either Frank Lorenzo or Gregg Lorenzo, or both, sent emails to Investor B and another Charles Vista client with the subject-heading "W2E Debenture Deal Points." The emails, designed to solicit those clients' investments in the Debentures, purported to "summarize several key points of the Waste2Energy Holdings, Inc. Debenture Offering," and contained the following false and/or misleading statements concerning W2E:

There are 3 layers of protection:

(I) The Company has over $10 mm in confirmed assets

(II) The Company has purchase orders and LOI's [letters of intent] for over $43 mm in orders

(III) Charles Vista has agreed to raise additional monies to repay these Debenture holders (if necessary)

37. The first statement was false because, by October 1, 2009, W2E had written off nearly all of its assets, and had no "$10 mm in confirmed assets."

38. The second statement was misleading because, as of October 1, 2009, W2E had only a single, non-binding, letter of intent for $43 million and negligible "purchase orders."

39. The third statement was misleading because, when it was made, it was far from certain that W2E could sell the full $15 million in Debentures it was offering, much less "raise additional monies to repay [those] Debenture holders."

40. At the time that Frank and/or Gregg Lorenzo caused Charles Vista to send the October 2, 2009 emails to potential W2E investors, they each knew, or recklessly disregarded, that the statements excerpted in paragraph 36 above were false and/or misleading statements about W2E.

41. On October 5, 2009, Frank Lorenzo and Gregg Lorenzo received an email authored by the Chief Financial Officer of W2E, Craig Brown, which expressly informed them of the "write-off of all of [W2E's] intangible assets . . . of about $11 million."

42. On October 14, 2009, Frank Lorenzo sent two additional emails to Charles Vista customers that contained the very same false and misleading statements that were in the October 2, 2009 emails.

Frank Lorenzo sent the October 14 emails to solicit investments in the Debentures.

43. At the time Frank Lorenzo sent the October 14 emails, he knew, or recklessly disregarded, that the statements contained in those emails about W2E were false and/or misleading.

44. At least one of the recipients of Frank Lorenzo's October 14, 2009 emails invested in the Debentures after receiving the email.

VIOLATIONS

1. As a result of the conduct described above, Gregg Lorenzo, Frank Lorenzo, and Charles Vista willfully violated Section 17(a) of the Securities Act, which makes it unlawful for any person in the offer or sale of any securities, directly or indirectly, to employ any device, scheme, or artifice to defraud, or to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or to engage in any transaction, practice, or course of business which operators or would operate as a fraud or deceit upon the purchaser.

2. As a result of the conduct described above, Gregg Lorenzo, Frank Lorenzo, and Charles Vista willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which make it unlawful for any person, directly or indirectly, to employ any device, scheme, or artifice to defraud, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances

under which they were made, not misleading, or to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

3. As a result of the conduct described above, Charles Vista violated Section 15(c)(1) of the Exchange Act, which prohibits a broker or dealer from effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any security by means of any manipulative, deceptive, or other fraudulent device or contrivance, defined in Rule 15c1-2 to include any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, and Rule 10b-3(a), which makes it unlawful for any broker or dealer, directly or indirectly, to use or employ, in connection with the purchase or sale of any security, any act, practice, or course of business defined by the Commission to be included within the term "manipulative, deceptive, or other fraudulent device or contrivance," as such term is used in Section 15(c) of the Exchange Act.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 15(b) of the Exchange Act including, but not limited to, disgorgement and civil penalties pursuant to Section 8A of the Securities Act and Sections 21B and 21C of the Exchange Act;

C. Whether, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondents Gregg Lorenzo, Frank Lorenzo and Charles Vista should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; whether, pursuant to Section 21C of the Exchange Act, Respondent Charles Vista should be ordered to cease and desist from committing or causing violations of and any future violations of Section 15(c) of the Securities Exchange Act and Rule 10b-3 thereunder; whether Respondents should be ordered to pay a civil penalty pursuant to Section 8A(g) of the Securities Act, Section 21B(a) of the Exchange Act; and whether Respondents should be ordered to pay disgorgement pursuant to Section 8A(e) of the Securities Act, Sections 21B(e) and 21C(e) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further

order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If a Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him or it upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2).

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the

Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding File No. 3-15211

In the Matter of GREGG C. LORENZO, FRANCIS V. LORENZO, and CHARLES VISTA, LLC, Respondents.	))))))

26 Federal Plaza
Courtroom 238
New York, New York

September 18, 2013
10:15 a.m.

BEFORE: CAROL FOX FOELAK,
Administrative Law Judge

* * *

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* * *

now that I didn't know." That is their case. "I can't say now that I didn't know." Well, that is not preponderance of the evidence.

So I think in a case like this -- and I am not minimizing this case because the repercussions are tremendous -- I think a couple character witnesses, two would be fine, to give your Honor an idea that you are not dealing with some kind of a Boesky or Madoff. This

is like unbelievable to tell you the truth. I have clients who lost millions of dollars and the

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Proceedings

people who absconded with their money, nothing happened to them.

JUDGE FOELAK: So you are down to two character witnesses that are hopefully going to come in. And the Division -- all they are going to do is testify that they have known him for a certain period of time and had some kind of business with him or didn't have some kind of business with him and always found him --

MR. HANTMAN: That's right.

JUDGE FOELAK: And the Division is going to be able to at least speak to them over the phone ahead of time?

MR. HANTMAN: Exactly, but I am not sure they can come in. The alternative, if they can't -- we prefer they come in, too. But if they can't come in on such short notice we would ask --

JUDGE FOELAK: Let's see if they can't come in.

MR. HANTMAN: Fair enough.

JUDGE FOELAK: Is there anything else?

MR. JANGHORBANI: No. Preserving our objection, your Honor, I think all that needs to

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be said about this has been said.

JUDGE FOELAK: Okay. Please proceed, then.

MR. JANGHORBANI: Good morning again, your Honor.

This is a straightforward fraud case. On October 14, 2009, the respondent, Mr. Frank Lorenzo, made blatant false statements in two e-mails to prospective investors and he did it to sell them debt securities of a start-up tech company called Waste Energy Holdings, Inc.

Now, in October 2009, Mr. Lorenzo was the director of investment banking at Charles Vista. That was Waste2Energy's investment bank. His job as head of investment banking was to understand Waste2Energy's business and financial condition and to help the company raise capital, to help it raise money by selling securities, by offering securities.

Waste2Energy's debt securities were highly speculative. They involved a high degree of risk. Mr. Lorenzo knew that. But to convince these two investors that Waste2Energy's securities were actually safe, he lied about

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fundamental aspects of the company's business and about the debt offering.

So, on October 14, 2009, he sent the following e-mail, this e-mail to two investors. He did it, as he said, to summarize several key points of the Waste2Energy

Holdings debenture offerings. Debentures were the type of debt security here.

Then he said – he described the offering generally and said there are three layers of protection. In other words, investors didn't need to worry about risk so much, they didn't need to worry so much about getting their money back because their investment was protected in these three ways.

First, he wrote, the company had over $10 million in confirmed assets. Second, the e-mail said that the company had purchase orders and letters of intent, LOI's, for over $43 million in orders. Finally, the e-mail said that Charles Vista has agreed to raise additional monies to repay these debenture holders if necessary.

Now, Mr. Lorenzo knew that each of

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these statements was false. He has admitted in testimony under subpoena and under oath that Waste2Energy had far less than $10 million in assets on October 14, 2009. In fact, it had less than a million.

He's admitted that Waste2Energy had virtually no orders and that Waste2Energy was already millions of dollars in debt. And he'd admitted that there was no basis to say that Charles Vista would or even could raise additional money to pay back debenture holders in the event of default.

And he has to admit those things because the circumstantial evidence in this case, Waste2Energy's public filings, the e-mail that Mr. Lorenzo sent and

received, they all show the same thing. They all show that these statements are false and that Mr. Lorenzo knew that well before October 14th.

But he sent his two e-mails anyway and he did it because Charles Vista was paid 20 percent of all of the money that Waste2Energy raised selling debentures and Mr. Lorenzo was hoping to get a cut of that.

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Now, this first layer of protection, there is no question Mr. Lorenzo knew Waste2Energy had nowhere near $10 million on October 14th. He has admitted it in testimony and the documents show it. They show Waste2Energy told Mr. Lorenzo twice before that date that the assets didn't exist. On October 1st, Waste2Energy issued two public files with audited financial statements. Those filings announced a write-off of nearly all the company's assets, over $11 million. And the filings also announced that Waste2Energy had less than 400,000 in total assets as of March 31, 2009.

Mr. Lorenzo received and read those filings two weeks before he sent his e-mail.

And then again on October 5th, ten days before he sent his false e-mails, Waste2Energy's chief financial officer told Mr. Lorenzo again, this time in an e-mail, that Waste2Energy had written off virtually all of its assets.

Mr. Lorenzo has admitted receiving that e-mail, reading it and understanding its

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import. So he actually knew that the company had nowhere near these assets on October 14th.

So where did he get this 10 million number from? He lifted it from an old filing. He took it from Waste2Energy's unaudited financial statements that were prepared as of December 31, 2008. So by October 2009, that number was nearly a year out of date and Mr. Lorenzo knew it had never been confirmed by any auditor. And in fact, as we will see from the e-mails, Waste2Energy repeatedly, over the summer and early fall of 2009, refused to confirm for Mr. Lorenzo that that asset still existed.

So even before the October 1st write-off, even before the October 14th e-mail, Mr. Lorenzo knew he had no business saying that this asset had been confirmed by anybody.

But it is a little academic because there is no question that he actually knew the asset didn't even exist on October 14th.

His second layer of protection. He wrote that the company has purchase orders and letters of intent for over 43 million in orders.

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Well, that makes it sound like Waste2Energy has millions of dollars in contracts. In other words, your investment is protected by Waste2Energy's thriving business, by its sales, multiple purchase orders and multiple letters of intent. But that was false and Mr.

Lorenzo knew it. He knew that Waste2Energy had very few actual orders in October 2009.

This 43 million number, he based this entirely on a single non-binding letter of intent for a potential purchaser in the Caribbean. In other words, one customer's non-binding agreement simply to think about buying Waste2Energy's products. Certainly not multiple orders and the multiple LOIs that he promised investors. And just as certainly it provided no protection to debenture investors.

There is no assets, no orders, no sales. Mr. Lorenzo knew it. But he had a third layer of protection. He wrote that Charles Vista has agreed to raise additional money to repay these debenture holders if necessary.

In other words, "Don't worry. Even if your investment is not protected by millions in

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assets and millions in orders, Charles Vista's got your back. We will raise the additional money to make sure you don't lose anything." But Mr. Lorenzo had no basis to say that.

He knew that this layer was at best misleading. He's admitted to that. There was no agreement between Charles Vista and Waste2Energy to raise additional money for the purpose of paying back debenture holders in event of default. Mr. Lorenzo has admitted he didn't even believe his statement at the time he made it. That he didn't believe that, even if it wanted to, Charles Vista would be able to find enough additional buyers to repay debenture holders. And that

was because Waste2Energy had already raised too much debt.

In fact, 70 percent of all the money Charles Vista managed -- Charles Vista was also a broker-dealer, and 70 percent of all the money it managed was invested in Waste2Energy. So no reason to think Charles Vista would be able to find additional investors.

And in the end Waste2Energy did default on its debentures and Charles Vista

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didn't raise any money to pay them back. So Mr. Lorenzo made a promise he knew he had no basis for, one that provided no protection.

Frank Lorenzo has no defense to these charges. His answer is simply to try to spread the blame to others. He blames Waste2Energy for not telling him sooner about the write-off but it did, on October 12th and October 5th, weeks before he sent his e-mails.

He said he was checked out at work, that others should have caught his misstatement. That is just nonsense. Mr. Lorenzo was an industry veteran. He was the head of investment banking. It was his job to know about Waste2Energy's financial condition.

And as the e-mails will show, your Honor, and as the testimony will show, Mr. Lorenzo was doing his job during that period. He was following Waste2Energy's financial condition, he was following the status of the audit over the summer and fall of '09 and he was following the disclosure in the company's private placement memorandum.

As I said earlier, he repeatedly asked

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Waste2Energy to confirm the 10 million assets still existed and the company repeatedly refused. He knew exactly what was going on with the company and he can't claim to be in the dark now.

Finally, he blames his colleagues at Charles Vista. He says that other senior management also signed off on the e-mails. But that just completely misses the point because there is no question that Mr. Lorenzo is responsible for his own statements in his own e-mails. And there is no question that he knew those statements were false, but he sent the e-mails anyway.

And at least one of the recipients, a man named Vishal Goolcharan, went ahead and invested $15,000 in Waste2Energy's debentures.

The other investor he solicited, a man named William Rothe, he didn't invest, that is true, but that doesn't excuse Frank Lorenzo's false statements. It is unlawful to make a false statement simply while offering securities. It is of no moment that Mr. Rothe didn't invest. In fact, Mr. Lorenzo certainly

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hoped he would invest. He was trying to convince him to buy. That is the entire purpose of this e-mail.

He sent the e-mails, your Honor, he sent them in the hope of making money. As I mention earlier, Charles Vista got about 20 percent of all of the debenture money raised. And Charles Vista's owner

had promised Mr. Lorenzo a cut of any debentures that he was able to sell.

So, he went ahead, he sent e-mails he knew to be false. That is what the evidence at this hearing will show. As a result of Mr. Lorenzo's blatant false statements in these two e-mails, he violated Section 17(a) of the Securities Act, Section 10(b) and Rule 10(b)(5) of the Exchange Act.

At the end of this trial, your Honor, the Division will ask that this Court find Mr. Lorenzo liable on all counts, that it impose cease and desist orders, that it award civil money penalties and that it implement all relevant statutory bars.

Thank you, your Honor.

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MR. HANTMAN: Your Honor, a very good opening statement and clearly it was probably prepared to be used against Gregg Lorenzo, who is the owner of Charles Vista, whom the bulk of the government's case was against Charles Vista and Gregg Lorenzo.

Now having reached some kind of resolution with him, apparently they have just taken what clearly and likely is true and applies to Gregg Lorenzo and they are trying to use what they have for Francis Lorenzo.

I am not going to rely on rhetoric. Obviously, anything I say or SEC counsel says is not evidence. The only evidence is what your Honor hears by witnesses under oath or documents that are submitted and

approved by this Court. So I think my letter of September 16, 2013, sums up our position. This e-mail really was at the request of Gregg Lorenzo and Spiro. I don't know where they are. They are not here but it was at their request that this was sent.

It wasn't Mr. Francis Lorenzo's desire to send this stuff out. He didn't even know these gentlemen. They would have no reason to

[p.38]

even know who he is. I think the evidence will show he never spoke to these gentlemen. They would have absolutely no reason in the world to rely upon anything that he would send them or his secretary would send them.

I could go on and on but I don't think it is appropriate. We will rely upon the evidence or what we think is lack of evidence. Again, these are a lot of statements that the government has made and naturally, having made what they say are unequivocal admissions, which we claim are not admissions at all, we leave them to their proof by a preponderance of the evidence that they can sustain their burden on all the elements: Of the scienter, of the proximate cause and of the losses. On all three they have to substantiate beyond a preponderance of the evidence.

Plus, I think W2Energy, to claim that they told Mr. Lorenzo this and told him that and everything else and that he understood what they told him I think is conjecture. But we'll hear what the evidence proves.

Thank you, your Honor.

[p.39]

JUDGE FOELAK: Okay.

MR. KAUFMAN: Morning, your Honor. Jack Kaufman for the Division. The Division calls Craig Brown.

JUDGE FOELAK: Mr. Brown, before you sit down I will put you under oath.

Whereupon,

CRAIG BROWN,

having been first duly sworn/affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KAUFMAN:

Q. Morning, Mr. Brown.

A. Good morning.

Q. Could you state and spell your full name for the record?

A. Craig, C-R-A-I-G, Littleton, L-I-T-T-L-E-T-O-N, Brown, B-R-O-W-N.

Q. How old are you, sir?

A. 46.

Q. How are you currently employed?

A. I work for the Gwinnett County Chamber of Commerce in Duluth, Georgia as the CFO.

Q. What do you do for them?

[p.40]

A. CFO.

Q. Chief financial officer?

A. Chief financial officer.

Q. In 2009, how were you employed?

A. I was employed by Waste Energy Holdings starting in July 2009 as chief financial officer.

Q. How long did you remain as chief financial officer of Waste Energy Holdings?

A. Through February 2011.

Q. What were your duties generally speaking as CFO of Waste Energy?

A. Initially when I joined the company my duties were to assist the company get caught up and current on its filings with the SEC, so it would have involved accounting, financial reporting, some work with financing of the company. But principally, for the time I was there, the first six months anyway, it was a lot of financial reporting responsibilities.

Q. Did those responsibilities change after the first six months you were at Waste2Energy in any way?

A. Not dramatically, no.

[p.41]

Q. How long did you stay as CFO at Waste2Energy?

A. I resigned February 2011.

Q. While you were at Waste2Energy, was there someone you reported to?

A. Yes.

Q. Who was that?

A. Peter Bohan, who was the CEO.

Q. Chief executive officer?

A. Correct.

Q. Can you describe, please, Waste2Energy's financial condition when you began as chief financial officer?

A. It was very, very poor.

Q. Can you elaborate a little on that? What do you mean by that?

A. They were very low on cash in the business, they had a lot of outstanding payables to service providers and vendors, some of which put the company in a position where they were unable to remain current on their filings. And some of that triggered some of the delays we had actually in connection with the work completed.

Q. During the time period you were there,

[p.42]

what happened to the financial condition? Did it improve, stay the same, get worse --

A. It got worse.

Q. I should ask you, what was Waste2Energy? What was the company?

A. It was a small public company -- it was a private company up until May 2009. It went public through a reverse merger and the premise of the business was they had a technology, a gasification technology in which they had the know-how to convert solid waste to gas to form electricity basically?

Q. Were they ever able to do that, convert it to electricity?

A. Yes.

Q. When was that?

A. A project over in the UK in 2009, 2010.

Q. Was that ever converted to electricity, the energy in that project?

A. I don't recall if they ever were officially generating electricity on that site.

Q. And when you left the company in February 2011, how would you describe its

[p.43]

financial condition?

A. Dire. Very poor.

Q. While you were at Waste2Energy, did the company generate any revenue?

A. Yes.

Q. What source of revenue did it have, or sources?

A. The revenues were contractual revenues for -- there is a couple sources. One was on a project they had in the UK, the principal project they had during my tenure there, a plant called Dargavel.

They had several equipment sales. They had revenue from sales of smaller pieces of equipment and they had fee revenue for basically engineering studies that they would do for prospective customers.

Q. How much of the company's revenue was attributable to the Dargavel contract as opposed to the others?

A. The majority of it. Probably 90-plus percent.

Q. Let me ask you to look at Exhibit 55. There are some binders in front of you. If you

[p.44]

can find the tab 55? If you have trouble I can show you.

This is a document, the first page says Dargavel energy from waste project. Do you see that, sir?

A. I do.

Q. This is Exhibit 55. Do you recognize this document?

A. Yes.

Q. What is it, sir?

A. This was a contract that had been entered into by the company, subsidiary in the Isle of Man with ASCOT Environmental, the customer for the Dargavel contract.

Q. Is this the Dargavel contract you were just testifying about?

A. Yes.

Q. If you could turn to page 7, the seventh page of the document. They are not numbered. And if you look toward the bottom of the page, the paragraph numbered 3, do you see it says "The contract price is the sum of --" and there is a number and then it is also written 3,286,943 Euros. Do you see that?

[p.45]

A. Yes, I do.

Q. I take it that was the total contract price in this contract?

A. Right.

MR. KAUFMAN: Your Honor, I have forgotten to offer the document in evidence. We offer it.

MR. HANTMAN: If I can just have some voir dire on this, your Honor.

JUDGE FOELAK: Okay.

VOIR DIRE EXAMINATION

BY MR. HANTMAN:

Q. Were you with the company when this contract was entered into?

A. No, I was not.

Q. Did you participate in any negotiations with respect to this contract?

A. I did not.

Q. Do you know whether this is an aut[illegible] contract? Can you swear under oath that this is a contract that was even signed?

A. The contract was signed based on what I have here.

Q. But you don't have any personal

[p.46]

knowledge of the circumstances leading up to this contract, do you?

A. I was not there when the contract was executed.

MR. HANTMAN: Your Honor, I would object. This witness isn't competent to –

JUDGE FOELAK: Is it your position this contract is false or didn't exist?

MR. HANTMAN: Well, I don't know that that is my position, but I think whether it gets admitted in evidence is whether it is properly authenticated, if the witness can testify that this is accurate. That is all. I am not suggesting that it is a fake or something.

MR. KAUFMAN: Your Honor, the witness has identified this as the Dargavel contract. It is a business record that was part of the company's records.

JUDGE FOELAK: Very well. The Exhibit 55 is admitted.

MR. HANTMAN: Under the business records, I would have no objection, your Honor.

(So received in evidence as Division Exhibit 55.)

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CONTINUED DIRECT EXAMINATION

BY MR. KAUFMAN:

Q. Looking back at page 7, I wanted to ask one more question about the price. Did that price ever change while you were the CFO of Waste2Energy?

A. The contractual price never changed.

Q. Was the contract ever profitable, the ASCOT contract we are talking about?

A. No, it was not.

Q. As of September 2009, was Waste2Energy actually due any money under this contract?

A. Restate that? As of what period?

Q. As of September 2009. By that time?

A. I have to go back and look at what we were carrying on the balance sheet. I don't recall.

Q. Okay.

A. The contract at that point had incurred some cost overruns.

Q. Let me direct your attention to tab 46, sir. Let me know when you have that in front of you, please.

A. Okay.

[p.48]

Q. Sir, do you recognize that document?

A. Yes.

Q. It is titled Form 10-Q, Waste2Energy for quarterly period ending September 30, 2009. Do you see that?

A. Yes.

Q. Could you turn to the very last page. You see there is a signature block there?

A. Yes.

Q. Then there is a date. Do you understand what that signature block signifies?

A. Yes.

Q. What is that?

A. That is the signers and the date on which the document is filed with the Commission.

Q. You were one of the people who signed this document?

A. Yes.

Q. And caused it to be filed with the SEC?

A. Correct.

MR. KAUFMAN: The Division offers Exhibit 46.

MR. HANTMAN: No objection, your

[p.49]

Honor.

JUDGE FOELAK: Exhibit 46 is admitted.

(So received in evidence as Division Exhibit 46.)

Q. What is Exhibit 46, just briefly, Mr. Brown?

A. It is a quarterly report that is required to be filed by public companies with the Securities and Exchange Commission.

Q. Was this for a particular period of time?

A. Yes. This was for the three-month period ending September 30, 2009.

Q. And it was filed in November, is that right, 2009?

A. Filed November 16, 2009.

Q. Please turn to page 13? By that number I mean on the upper right-hand corner. You will see page 13 of 36.

We are also putting it up on the screen if that is easier for you.

I will ask you to look at what is called note 4. It says, "Contracts in progress." There are some numbers there. I am

[p.50]

going to ask you, does this help you to determine whether any revenues were still actually owed

Waste2Energy as of that time, September 30, 2009, on the Dargavel contract?

A. Well, at this time there was already a loss that had been incurred on the contract so, no, I don't believe there were.

Q. You don't believe there were additional revenues that were going to come in on this contract as of that date. Is that what you are saying?

A. That's correct, as we had highlighted in the footnote there were ongoing discussions between the client and the company, Waste2Energy, as to the treatment of those costs.

Q. Just to be clear, the contract being discussed in this note, is that the Dargavel contract, the ASCOT contract you have been talking about?

A. Yes, it is.

Q. It says, if you look at the second sentence of the full paragraph that starts "Estimated" it says "The one contract in

[p.51]

progress has incurred cost overruns and other costs." Do you see that?

A. Yes.

Q. And that is referring to the Dargavel contract?

A. Yes.

Q. Is it fair to say there were no other contracts in progress with respect to Waste2Energy at the time?

A. Correct.

Q. Was Waste2Energy -- you can take that off the screen.

Was Waste2Energy due any other monies under any other contracts as of this time, September 30, 2009?

A. No major construction contracts, no.

Q. Well, was it due any money at all?

A. I don't recall if there was any pending small equipment sales. But, no -- there -- there would have been nothing else.

Q. Nothing else?

A. According to the balance sheet.

Q. You mentioned before that there were some other contracts other than Dargavel while

[p.52]

you were at Waste2Energy. Isn't that right?

A. Yes, but not of that magnitude.

Q. What was the total amount of those other contracts while you were at Waste2Energy?

A. If you were to aggregate a couple of smaller equipment sale contracts as well as some of the design studies that were entered into, I would guess --

Q. We don't want you to guess, sir. What is your best recollection?

A. Less than $500,000.

Q. Okay.

A. In the aggregate, during my tenure.

Q. Are you familiar with something called a letter of intent or LOI?

A. Yes.

Q. What do you understand that to be?

A. It's an agreement between two parties that are evaluating entering into a more formal contractual arrangement. It basically defines the scope of what those preliminary terms may look like.

Q. In your understanding, does it obligate either party to do anything, this LOI?

[p.53]

A. No.

Q. No?

A. No.

Q. Did Waste2Energy have any letters of intent or enter into any letters of intent, let's say, as of October 2009?

A. No.

Q. Not at all?

A. Not as of October 2009.

Q. Let me ask you to look at Exhibit 15, tab 15?

A. 50?

Q. 15.

Do you have that in front of you, sir?

A. Yes.

Q. Do you recognize that document, titled "Maven Media Holdings, Form 8-K, date of report May 2009."

Do you recognize that document?

A. I do.

Q. What is that?

A. This was the filing that was made with the Securities and Exchange Commission at the time the company entered into the reverse merger

[p.54]

and a subsequent equity offering tied to the merger.

MR. KAUFMAN: The Division offers Exhibit 15.

JUDGE FOELAK: Hearing no objection, Exhibit 15 is admitted.

(So received in evidence as Division Exhibit 15.)

Q. Mr. Brown, did you have any involvement in preparing this document?

A. No, I did not.

Q. Was this prepared prior to your being at Waste2Energy?

A. Yes.

Q. Do you know who prepared it?

A. It would have involved management of the company but I think largely it was a firm called Citrin Cooperman did a lot of the work.

Q. And who were they?

A. They were an accounting firm that had a unit that did a lot of financial reporting work for small public companies.

Q. Just to be clear, what was Maven Media Holdings?

[p.55]

A. Maven Media was the name of the company, the shell company that was purchased and ultimately the name was changed to Waste Energy Holdings.

Q. That is the former name of Waste2Energy Holdings?

A. Yes. Correct.

Q. If you could turn to page 15, again the upper right-hand corner page numbers? We'll put it up on the screen.

I am sorry. I gave you the wrong page number. Page 63, Exhibit 15.

This page is titled "Waste2Energy Inc. and subsidiaries balance sheet."

Do you have that in front of you?

A. I do.

Q. What is this showing generally?

A. This is showing the financial position of Waste2Energy as of December 31, 2008 based on unaudited financial statements as of that period.

Q. What does that mean, "unaudited financial statement"? What does the term "unaudited" mean?

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A. It was an interim period. The company had a fiscal year end of March 31st and they had not been subject to a full external audit by an outside accounting firm.

Q. And is there any significance to the fact it was unaudited?

A. No. It is not uncommon to file unaudited statements in these type of filings.

Q. If you could look at the line that says "Total assets," it says "$13,987,764." Do you see that?

A. Yes.

Q. Is it fair to say that that was the recorded unaudited number for the total assets of Waste2Energy as of December 31, 2008?

A. That's correct.

Q. If you could look up a few lines, there is a line that says "Intangibles, net, $10,038,558." Do you see that?

A. Yes.

Q. Do you know what that intangibles net was?

A. That was -- the bulk of that was the value that was assigned to the technology and

[p.57]

the know-how, I guess, that was acquired that was the basis of, the foundation of this company.

Q. Okay.

A. They made a couple different acquisitions and that was the calculated value by a third-party appraiser.

Q. And the goodwill line below that, $470,274, what was that?

A. That, if I recall, was the value that was assigned to the workforce, the people that were initially in Iceland that were behind the development of the technology.

Q. This Form 8-K, when was it filed?

A. May 28, 2009.

Q. Let me ask you to just turn to I think it is two pages earlier, page 61. There is a date there, June 3, 2009. What does that tell you?

A. That was actually the filing date. June 3rd.

Q. 2009?

A. 2009.

Q. Did there come a time when

[p.58]

Waste2Energy publicly reported -- when its publicly reported assets changed significantly?

A. Yes.

Q. When did that happen?

A. There was an amended 8-K filed, an amendment of the document we were just reviewing, on or around the 1st of October 2009.

Q. October 1, 2009? Is that right?

A. Yes.

Q. And were you personally involved in preparing the amended 8-K filing?

A. I was.

Q. Was there any other public filing filed on October 1, 2009 for Waste2Energy?

A. Yes.

Q. What was that?

A. There was a quarterly report for the quarter ended June 30, 2009 filed.

Q. Is that also known as a Form 10-Q?

A. Yes.

Q. What was your -- were you involved in the preparation of that as well?

A. Yes.

Q. What was your involvement in the

[p.59]

preparation of the amended 8-K and the Form 10-Q?

A. A lot of my involvement on the 8-K was surrounding working with the audit form and third-party accountants and management to get a handle on the evaluation of those intangibles that were on the balance sheet, the $10 million number.

Q. And who were the auditors you worked with?

A. The third-party auditor was a firm called Marcum.

Q. Marcum? How do you spell that?

A. M-A-R-C-U-M.

Q. Did you work with anyone else other than Marcum?

A. That was audit firm and we also worked with Citrin Cooperman who had been involved in the initial preparation of the financial statements that were filed in May or June 3rd.

Q. Were there any attorneys involved?

A. Yes.

Q. Who were they?

A. Sichenzia Ross Friedman.

[p.60]

Q. When did you have discussions with the auditors about this audit? When did that take place?

A. Probably my first week on the job. So, first -- early July is when I first started having dialogue with them.

Q. Did you continue to have those discussions through the end of September 2009?

A. I did.

Q. What happened -- you said you were looking at the intellectual property. What ultimately ended up happening with that report of the intellectual property?

A. It was totally written off. It was deemed to be totally impaired and the value of that was written down to zero.

Q. You mean the value of the $10 million intellectual property was written down to zero?

A. Yes, as well as the goodwill line item.

Q. Let me ask you to turn to tab 30?

MR. HANTMAN: Excuse me. Was there a date this was done?

Q. Were you talking about the October 1st

[p.61]

filing, sir, when you said it was written down to zero?

A. Yes. When the -- audited statements for 3/31/2009 were completed that was filed on October 1st.

Q. Could you, please, turn to tab 30. Division Exhibit 30 appears to be a series of e-mails to and from Craig Brown. I am going to ask you, sir, if you sent and received these e-mails?

A. Yes, I did.

Q. It looks like they were all on August 19, 2009.

The Division offers Exhibit 30.

JUDGE FOELAK: Hearing no objection, Exhibit 30 is admitted.

(So received in evidence as Division Exhibit 30.)

Q. I want to start with the second page of this e-mail chain. The first in time appears to be from a David Manno to C. Brown and it is on August 19th. Do you know who Mr. Manno is?

A. Yes, I do.

Q. Who is that?

[p.62]

A. He was an attorney with Sichenzia Ross Friedman.

Q. Was he involved in working on this audit?

A. Yes.

Q. And it is to C. Brown. Is that to you?

A. That was my e-mail address, yes.

Q. In the text of the e-mail it says, second sentence begins, "Because the 10-Q was not filed today, the bulletin board will assign an E to the company's symbol" then there is a parenthetical. The next sentence says "If the company does not file the 10-Q within 30 days of tomorrow, it will be delisted."

Is that 10-Q the one you have been talking about that was ultimately filed on October 1st?

A. Yes, it was.

Q. Now going to the next e-mail in line, you can see it starts at the bottom of the first page and then goes to the second page. This one is from a Thomas Rose to you, Mr. Brown. Is that correct?

[p.63]

A. That's correct.

Q. Who is Mr. Rose?

A. Tom was another attorney at Sichenzia Ross.

Q. It looks as though he is responding to the earlier e-mail and he said – he says, "What can we do to get the Q filed? I don't see how CV can sell anything when the company isn't current on its filings. Are they aware if this is coming?"

Do you see that?

A. I do.

Q. Again, do you understand the Q he is referring to there to be the 10-Q you have been talking about?

A. Yes.

Q. It says "I don't see how CV." Do you understand what CV is referring to?

A. Yes. Referring to Charles Vista.

Q. Who is Charles Vista?

A. That was the name of the investment banking firm that had been working with the company to help raise money for the company's financing.

[p.64]

Q. Do you understand what he means when he says "I don't see how CV can sell anything when the company isn't current on its filings"?

A. Yes.

Q. What does that mean to you?

A. He doesn't see how they can market if the company was not current in its filings with the Securities and Exchange Commission and was potentially on the brink of being delisted.

Q. Market what?

A. Sorry?

Q. You said market.

A. Market, sell securities.

Q. To raise money --

A. Market securities to raise money for Waste2Energy.

Q. Then the next e-mail in the chain appears to be from you later that day. Is it fair to say this is your response to those e-mails?

A. Yes.

Q. You say, "We are continuing to work --" second sentence. "We are continuing to work on 3/31 numbers and hope to get the audit

[p.65]

going this week and be in a position to file audited statements for March 31st in the next two weeks. We expect to be able to get a 10-Q done and filed in short order after the 3/31 numbers are filed with the SEC." Do you see that?

A. I do.

Q. Again you are talking about this same 10-Q that eventually got filed on October 1st. Is that right?

A. That's correct.

Q. Then the next e-mail, it looks as though you forwarded it -- you forwarded this chain to Francis Lorenzo. Is that correct?

A. Yes.

Q. And you say "FYI." Why did you forward it to Francis Lorenzo?

A. I wanted to make sure they were in the loop in terms of the fact that we were working on the filings, both the audited statements which needed to be filed before the Q got filed.

But there was a timeline that we had in mind as to when we could have that completed. I just wanted them to be current in terms of

[p.66]

where we stood.

Q. Who is Francis Lorenzo and what did he have to do with this?

A. Mr. Lorenzo was an investment banker with Charles Vista.

Q. And was there a particular reason you sent him these e-mails?

A. He and Mr. Lorenzo, Gregg Lorenzo, were the two individuals at Charles Vista who had the major interaction with our company.

Q. With Waste2Energy?

A. With Waste Energy Holdings, yes.

Q. Interaction in terms of what?

A. Just being the point persons in terms of conversations. They were the primary points of contact between Waste2Energy and Charles Vista.

Q. For what purpose?

A. For working on proposed financing transactions for the company.

Q. Okay. And then you see Mr. Lorenzo's response, "Thanks for the update and the great work." Do you see that?

A. I do.

[p.67]

Q. Did you ever meet Frank Lorenzo in person?

A. No.

Q. You did not. Okay.

Let me ask you now to turn to tab 22. I ask you to take a look at it. It is -- it says "Form 10-Q for the quarterly period ended June 30, 2009."

Do you recognize this document?

A. Yes.

Q. What is it?

A. It is the filing that we have been discussing for the three-month period ending June 30, 2009.

Q. If you could turn to the last page, please? You should see a signature page.

A. Yes.

Q. There is a date. Can you explain what these signatures are and what that date mean?

A. The filing was signed by Peter Bohan, the CEO, and myself the CFO. And it was filed October 1, 2009 with the Securities and Exchange Commission.

Q. If you could turn --

[p.68]

MR. KAUFMAN: Oh, the Division offers Exhibit 22.

JUDGE FOELAK: Hearing no objection, Exhibit 22 is admitted.

(So received in evidence as Division Exhibit 22.)

Q. If you could, please, turn to page 4 of this document? This page is titled "Consolidated financial statements and notes to the financial statements, Waste2Energy Holdings, Inc.," et cetera.

Can you tell us generally what this page is showing?

A. It is showing the financial position of Waste2Energy for the quarter ended June 30, 2009 and a comparison of that position with the final audited numbers for the year ended March 31, 2009.

Q. So on the right-hand side, the left column is unaudited numbers and the right column are audited?

A. Yes, that's correct.

Q. Can you just, very briefly, what is the difference between an audited financial

[p.69]

statement and unaudited? Can you explain that?

A. An audited statement has been through a pretty rigorous examination by a third-party audit firm who has tested and validated the transactions or a sample of the transactions and issued an opinion as to the accuracy of those numbers.

Q. And unaudited has not been through that process?

A. Yes. They typically do a review but it's not subject to an audit opinion or subject to a full audit.

Q. There is an assets line for both the June 30th quarter and March 31st quarter. For June, it says $660,408. Is that correct?

A. Yes.

Q. Looking at the list of assets, there is no longer one for intangibles. Is that correct?

A. That's correct.

Q. And why is that?

A. The value of those intangible assets was written off to zero as part of the year-end 2009 audit.

[p.70]

Q. And there is no line for goodwill there. Is that correct?

A. That's correct.

Q. And why is that?

A. It was also deemed to have zero value.

Q. Could you, please, turn to page 106 of this -- wait a minute. If you can take this one off.

I want to show you Exhibit 16. Exhibit 16 says on the first page "Form 8-K/A Amendment Number 1," and it says "Waste2Energy Holdings, Inc."

Do you see that?

A. I do.

Q. Do you know what this document is?

A. This was the document that was filed to update the initial 8-K from June 3rd but to include a fully audited set of financial statements for the period ending March 31, 2009.

Q. And did you play a role in preparing this? I think you testified before.

A. Yes, I did.

Q. If you could turn to page 66, it is another signature page. There is a line for

[p.71]

Craig Brown that says October 1, 2009. Can you explain what those matters mean?

A. Yes. That was the date on which this document was filed, and I was the individual that signed the document on behalf of Waste2Energy.

MR. KAUFMAN: The Division offers Exhibit 16.

JUDGE FOELAK: Hearing no objection, Exhibit 16 is admitted.

(So received in evidence as Division Exhibit 16.)

Q. Please turn to page 69 of Exhibit 16. Do you have that in front of you, sir?

A. I do.

Q. It says "Waste2Energy Inc." and "Subsidiaries consolidated balance sheets." Can you tell us what this page shows generally?

A. Yes. This is basically two fully audited periods. The audited period dated March 31, 2009 compared to what the audited period dated March 31, 2008.

Q. The March 31, 2009 numbers, are these the same as we saw just now in the October 1st

[p.72]

filed 10-Q?

A. Yes, they are.

Q. And again there is no listing for intangibles. Is that correct?

A. Correct.

Q. And the reason for that is the same reason you gave before with respect to the 10-Q?

A. That's correct.

Q. And again there is no goodwill listed. Is that correct?

A. That's correct.

Q. And is your answer as to why that isn't there the same as to why it is not on the 10-Q?

A. Yes, it is.

Q. Could you, please, turn to page 106 now of this document? This page is titled "Note 7, goodwill and technology." Do you have that in front of you, sir?

A. I do.

Q. Generally speaking, what is this note describing?

A. This basically is a summary of the assets that were on the books at a gross amount

[p.73]

adjusted for currency and other things that would affect the U.S. reporting value of those amounts.

Also the key line item is that it shows an impairment charge being recorded against the value of those assets to bring it down to a zero value.

Q. Is this a description of what happened with the intangibles and goodwill that we were just talking about?

A. Yes.

Q. We have just looked at a 10-Q and amended 8-K that were filed for Waste2Energy on October 1, 2009. The 10-Q had numbers as of June 30, 2009, correct, on the balance sheet?

A. That's correct.

Q. We can look back at it if you need to.

A. No. That is correct.

Q. When you filed these documents were you aware of any material change between June 30, 2009 and October 1, 2009 to the balance sheet?

A. Between June 30th, from a date standpoint?

[p.74]

Q. Right.

A. I mean, when I joined the company in July we had not yet filed either the audited 3/31 or the June -- I am not sure I understand the question.

Q. If it doesn't make sense to you that is fine. What I am asking is, they were filed October 1, 2009 but the financial statements were as of June 30th. Is that correct?

A. Right.

Q. When you filed them, were you aware of any material change between June 30th and October 1st?

A. No. No material changes.

Q. Let me ask you to turn to Exhibit 19. Exhibit 19 appears to be an e-mail from Craig Brown to several people dated October 5, 2009. Do you see that, sir, in the upper part of the document?

A. Yes, I do.

Q. Then there is text below it. Did you send this e-mail?

A. Yes, I did.

MR. KAUFMAN: The Division offers

[p.75]

Exhibit 19.

JUDGE FOELAK: Hearing no objection, Exhibit 19 is admitted.

(So received in evidence as Division Exhibit 19.)

Q. You will see the subject line says "Re W2E financial filings." Do you see that?

A. Yes.

Q. Below that where the body starts it says, "The accumulated deficit we have reported is due to three primary issues." Do you see that?

A. Yes.

Q. Can you tell us generally what this e-mail is about and why you sent it?

A. Yes. There was a request made from an individual at Charles Vista, Mr. Zdanow, on October 5th asking about -- I guess he was looking at the filings and did not understand why there was an accumulated deficit of 18 million.

Q. You are referring to his e-mail that is part of this document?

A. Yes, an e-mail in this chain which

[p.76]

triggered my response to this e-mail.

Q. Okay.

A. But basically it was to highlight for those individuals copied on the e-mail the key reasons why there was a deficit and why the losses were so significant, which had already been reported in the filings that we had made publicly.

Q. Where did Mr. Zdanow work?

A. He was with Charles Vista.

Q. It looks as though you copied Francis Lorenzo as well. Is that right?

A. I did.

Q. Why did you copy Mr. Lorenzo?

A. Typically Mr. Lorenzo was copied on any of these type of communications, but he was also on the communication that Mr. Zdanow sent over at 2:34 p.m. in which I was copied on this.

Q. I see. So you hit "Reply all," in other words?

A. Yes.

Q. You say he was -- Mr. Frank Lorenzo was typically on these kinds of exchanges. What kind of exchanges do you mean?

[p.77]

E-mail exchanges between Charles Vista staff and Waste2Energy management involving financial questions or issues.

Q. Okay. If you look -- you said there were three primary issues. If you just look at issue number 2, it is the first sentence, that says "Write-off of all our intangible assets that were tied to our purchase of Enerwaste in Europe in 3/31 period of about $11 million." Do you see that?

A. I do.

Q. Is that referring to the write-off you have been talking about that ended up writing off the intangibles that then didn't show up --

A. Yes. That is the write-off referred to.

Q. Can you describe how Waste2Energy was funding its operations as of September 2009?

A. Basically through short-term financing from some bridge loans that had been, I guess, put together issued by Charles Vista with some of their investors.

Q. Okay. And what was Charles Vista's role?

[p.78]

A. Charles Vista was the investment banking firm who marketed the securities.

Q. And how would you describe how that was going, the cash flow of the company and these offerings?

A. Not well.

Q. Could you elaborate on that?

A. There were – going back to the May, June equity raise, that equity raise tied to the initial taking the company public did not go as planned in terms of how much capital they were able to raise through that offering.

That just kind of trickled down through the summer and fall as we had to rely on bridge financings to assist the company to continue to maintain its operation.

Q. By "bridge financings," do you mean debt financings?

A. Yes, short-term debt typically.

Q. Let me ask you to look at Exhibit 7.

Before I do that, can you explain what role the debt financings played and how that affected cash flow of Waste2Energy?

A. Well, it was key because the company

[p.79]

really was not generating cash flow from its operating business at that time. So it was reliant on financing through these debt transactions to generate capital to operate on.

Q. Let's look at Exhibit 7. On the first page it appears to be an e-mail dated September 1, 2009 from Peter Bohan to several individuals including you, Mr. Brown. Is that correct?

A. Yes.

Q. And did you receive this e-mail on September 1, 2009?

A. Yes.

MR. KAUFMAN: The Division offers Exhibit 7.

JUDGE FOELAK: Hearing no objection, Exhibit 7 is admitted.

(So received in evidence as Division Exhibit 7.)

Q. If you could turn to the second page of this exhibit, there is an e-mail at the bottom of the page from Francis Lorenzo to Peter Bohan and you, Mr. Brown. Is that correct?

A. Yes, that's correct.

[p.80]

Q. The subject line says, "Only $90,000 in cash remaining" and this is from Francis Lorenzo.

Do you have an understanding of what that means?

A. Yes. That is a reference to the amount of cash available in the company as of that date as of that request.

Q. As of September 1, 2009?

A. I believe so, yes.

Q. And then Mr. Lorenzo says, "Gentlemen, as previously discussed, please forward me the use of proceeds for the bridge money that was just raised." It looks like 2.5 million. Is that correct?

A. Yes.

Q. Is the bridge money the debt financing or some of it that you were referring to before?

A. It is.

Q. And then there is a response e-mail which is the one we started with from Peter Bohan the same day that you are copied on. Is it fair to say that this is Mr. Bohan's response?

[p.81]

A. Yes.

Q. If you look at the first paragraph, the paragraph numbered 1 of this response, it says, "The bridge would have covered OPEX for four months if we did not have

to incur repayment of notes and significant repayment to accounting, audit and legal firms."

Do you see that?

A. Yes.

Q. Do you know what Mr. Bohan meant by "OPEX"?

A. Operating expenses.

Q. And generally what is your understanding of what Mr. Bohan is saying there?

A. That without having to shift a lot of the money that was raised to basically paying off other notes that had been issued previously to either refinance or pay them off altogether, and pay off some of the accounting and legal firms that were supporting the company through its compliance process, the company would have had money to operate more easily with respect to paying salaries, rents, other operating costs to run the business.

[p.82]

Q. And paragraph number 2 says, "While the bridge raises have helped in the short term, they have created a never-ending demand to replace them with additional notes and very little of this money comes to the company."

Do you see that?

A. Yes.

Q. Do you understand what company Mr. Bohan is referring to?

A. He is referring to Waste2Energy.

Q. Generally what is your understanding of what he was saying there?

A. I think what he was trying to suggest is the company had been put into a cycle where it was faced with not only having cash needs but also facing maturities of other short-term borrowings that had to be paid off and, therefore, very little of the net raise was coming actually back into the company.

Q. Then in the third paragraph, the last couple of lines -- actually the last phrase on the last line. "This is a never-ending loop that only benefits CV in the short term." Do you see that?

[p.83]

A. I do.

Q. "CV" there, is that Charles Vista?

A. Yes.

Q. What is your understanding of what Mr. Bohan is referring to there?

A. I think what he was referring to -- my assumption is that it was referring to the fact that Charles Vista was, for each transaction, earning a commission and able to maintain a flow of revenue into their firm.

Q. Can you turn to the last page of this document? There is an attachment it looks like. It says "uses of proceeds from $1.5 million bridge loan." Do you see that?

A. Yes.

Q. Do you have an understanding of what that attachment, generally speaking, is about?

A. Yes.

Q. Can you just explain that?

A. It is basically a detailed schedule showing the gross amount that was raised less what was paid to Charles Vista and how the net amount that came into Waste Energy was disbursed. Then what was left over at the

[p.84]

bottom is the $90,000 he was referring to in the e-mail.

Q. I take it these numbers are in thousands?

A. They are in thousands.

Q. As of the end of September 2009, do you know how much cash on hand Waste2Energy had?

A. I can refer to the financial statements.

Q. Let's go back to Exhibit 46, which I believe is in evidence. If you can look at page 4, please?

A. $9,000. $9,007.

Q. I am sorry. So the 9,000 cash line, that is your answer as to how much cash it had on hand as of September 30, 2009, the company?

A. Yes.

Q. All right. You can put that away. Oh, let me ask you one more question. I am sorry, about that same page.

The total assets line says, $905,582 there?

A. Yes.

Q. That was the total assets as of

[p.85]

September 30, 2009?

A. Yes.

Q. And that was an unaudited number. Is that correct?

A. That's correct.

Q. When was this document, this 10-Q filed? If you look at the last page --

A. November 16, 2009.

Q. As of or beginning October 2009, how was Waste2Energy funding its operations?

MR. HANTMAN: I think that was asked and answered, your Honor.

MR. KAUFMAN: I think I asked about September.

JUDGE FOELAK: Objection overruled. Please answer.

THE WITNESS: Could you repeat the question, please?

Q. As of October 2009, how was Waste2Energy funding its operations?

A. During October the company – well, Charles Vista, working with the company, launched date an offering of 12-percent debentures.

[p.86]

Q. If you can look at tab 1, do you recognize this document? It says "Form 10-K Waste2Energy"?

A. Yes.

Q. Can you tell us what this is?

A. This is the annual report filed with the Securities and Exchange Commission which includes the audited financials for the year ending March 31, 2010.

Q. Were you involved in preparing this document?

A. Yes, I was.

Q. What did you do?

A. What did I do with the preparation?

Q. Just very generally.

A. I was involved in developing the financial statements, the footnotes, the write-up of the business.

Q. Would you turn to the last page, please. Is that your signature block there and the date July 12, 2010, what does that mean?

A. That would have been the filing date with the Securities and Exchange Commission.

MR. KAUFMAN: Division offers

[p.87]

Exhibit 1.

JUDGE FOELAK: Hearing no objection, Exhibit 1 is admitted.

(So received in evidence as Division Exhibit 1.)

Q. Please turn to 19. There is a paragraph with heading "We have incurred significant debt to finance our operations to date." You see that?

A. Yes.

Q. The second sentence of that paragraph says "Of this amount, $9,538,113 represents our 12 percent senior convertible debentures which are due one year from the date of issue," et cetera.

My only question is, is that the 12 percent debenture offering you are referring to?

A. Yes, it is.

MR. HANTMAN: Sorry. What page is this on?

MR. KAUFMAN: Page 19 – it is on the top right-hand corner, the page numbers.

We are also putting it up on the

[p.88]

screen.

MR. HANTMAN: Thanks.

MR. KAUFMAN: Sorry, your Honor.

Q. Let me ask you to turn to tab 65, please. This is Division Exhibit 65, which appears to be an e-mail from Craig Brown to Vesselin Mihaylov, V-E-S-S-E-L-I-N, M-I-H-A-Y-L-O-V, dated September 29, 2010, subject W2E diligence item 4, list and contact info of noteholders, and there is an attachment.

Do you recognize this e-mail and attachment, sir?

A. Yes.

Q. Did you send this e-mail on September 29, 2010 with the attachment?

A. Yes.

MR. KAUFMAN: The Division offers Exhibit 65.

JUDGE FOELAK: Exhibit 65 is admitted.

(So received in evidence as Division Exhibit 65.)

Q. Can you explain who Mr. Mihaylov is and why you were sending him this e-mail with the attachment?

[p.89]

A. He was an investment banking associate, I believe, with Charles Vista and was involved there -- I don't recall specifically but there had been some discussions with some third parties that might have had interest in investing or buying the company at the time. And they had requested a list of all the noteholders.

Q. Is the list of noteholders of Waste2Energy the attachment to this e-mail?

A. Yes.

Q. Which notes -- so we are talking about pages 2 and 3 of this document now.

Which notes are listed here? What notes do these noteholders hold?

A. These are principally -- the bulk of the document down to the section that says "Other notes," everything else are the holders of the 12-percent debentures.

Q. So everybody listed above the "Other notes" on this document are holders of those 12-percent debentures that you testified about?

A. That's correct.

Q. And what was the total amount? Can

[p.90]

you tell the total amount that was raised through the sale of these debentures?

A. $10,058,013.

Q. Is that the number that is listed at the bottom of that list?

A. It is.

Q. Did any of these investors who are listed on here as having invested in the debentures, did any of them receive back any of the principal amount of their investment?

A. No.

Q. In 2009, did Waste2Energy have any kind of understanding or agreement with Charles Vista that Charles Vista would raise additional money, if necessary, to repay these debenture holders?

A. Can you repeat the question?

MR. KAUFMAN: Can I ask the court reporter to read back the question, your Honor?

(Record read.)

A. Not that I am aware of.

Q. I am just going to ask you -- so let's look at the second three pages of the document and the headings at the top of each column. I

[p.91]

want to focus on those.

The first one, "Noteholder," what does that mean?

A. That is the individual or entity to whom the note was issued.

Q. By the way, do you know who prepared this chart or the attachment to the e-mail?

A. I maintained and prepared this.

Q. Where did the information come from that you put in the chart?

A. It came from closing documents from each closing transaction that would have been forwarded to me from someone at Charles Vista.

Q. By "closing transaction" you are referring to the individual debenture purchasers?

A. Yes.

Q. And then the second column says "Address." What does that refer to?

A. That was the mailing address provided in the documentation that was sent to us in the closing documents.

Q. So the mailing address for each noteholder?

[p.92]

A. Yes.

Q. And the "Note date," what does that refer to?

A. That was the date of the closing of each note.

Q. And the "Amount," what does that refer to?

A. That was the principal amount of the investment made by the investors.

Q. That was the dollar amount?

A. Dollar amount.

Q. I want to just ask you to describe one example on this list. If you look about three-quarters of the way down or a little further there is a listing for a Roslyn Parmased, R-O-S-L-Y-N, second name P-A-R-M-A-S-E-D. Do you see that?

A. Yes.

Q. So what does this chart show for Ms. Parmased?

A. It shows that she invested $15,000 -- purchased a debenture with a face value of $15,000 on December 18, 2009.

Q. And this is one of the 12 percent

[p.93]

Waste2Energy debentures?

A. Yes.

Q. Let me ask you to turn to tab 54. Exhibit 54 is a series of documents that have the name Roslyn Parmased and also Vishal Goolcharan, G-O-O-L-C-H-A-R-A-N, on them in various places. Do you recognize the documents?

A. Yes.

Q. Can you tell us generally what they are?

A. Yes. This was an example of the documents that were required to be completed by each investor at the time they agreed to purchase these securities.

Q. The 12-percent debentures?

A. The 12-percent debentures.

MR. KAUFMAN: Division offers Exhibit 54.

JUDGE FOELAK: Division 54 is admitted.

(So received in evidence as Division Exhibit 54.)

Q. Can you tell me generally what these documents show?

[p.94]

A. Generally they are – provide the amount of the investment. They have to check what type of accredited investor status they are as an individual firm. It has their contact information, their signature, signature page.

Q. Let's look – and are these all talking about a single investment, these documents?

A. All these are talking about a single investment, yes.

Q. Let's look at the second page. Under A-1 it says "Roslyn Parmased and Vishal Goolcharan." You see that?

A. Yes.

Q. It says "Names of subscribers." You see that?

A. Yes.

Q. Who do you understand them to be in this transaction?

A. They are the subscriber or the purchaser of the security.

Q. And how much did they invest?

A. $15,000.

Q. Is it fair to say that this $15,000

[p.95]

investment that is discussed in these documents, Exhibit 54, is the same one that we looked at on Exhibit 65?

A. Yes.

Q. That is all for that one.

Sir, did you have any direct contact personally yourself, while you were at Waste2Energy, with anyone from Charles Vista?

A. By phone and e-mail.

Q. Who did -- other than e-mail. Let's put e-mail aside for a second. By telephone who did you have direct communication with?

A. Mr. Frank Lorenzo, Mr. Gregg Lorenzo, Vesselin -- the gentleman we just referenced an e-mail from, Vesselin and -- I don't recall anyone else specifically.

Q. Was there a particular person who was your primary contact at Charles Vista?

A. The person I spoke to probably the most during their tenure was probably Mr. Frank Lorenzo.

Q. Did you ever withhold any information about Waste2Energy from anyone at Charles Vista?

A. No, I did not.

[p.96]

Q. Do you know of anyone at Waste2Energy who withheld any information about Waste2Energy from Charles Vista?

A. I do not.

Q. What ultimately happened to Waste2Energy after you left?

A. It was placed into bankruptcy.

MR. KAUFMAN: Your Honor, I am not going to use this witness to do this but I just want to offer Exhibit 53, which are bankruptcy filings for Waste2Energy.

MR. HANTMAN: No problem, your Honor.

JUDGE FOELAK: Exhibit 53 is admitted.

(So received in evidence as Division Exhibit 53.)

MR. KAUFMAN: May I have a moment, your Honor?

JUDGE FOELAK: Yes.

(Pause.)

Q. I don't know if you recall, sir. We can look back -- why don't we look back at Exhibit 7. The paragraph numbered 3. Last phrase says, "This is a never-ending loop that only benefits CV in the short term." Correct?

[p.97]

Do you see that?

A. Yes.

Q. By "CV" I think you said you understood that to mean Charles Vista?

A. Yes, Charles Vista.

Q. Do you have an understanding of why this never-ending loop only benefited Charles Vista in the short term?

A. Well, I think what he was referring to when he wrote that e-mail was the fact that, you know, from every transaction they were generating a commission of approximately 10 percent of each transaction that occurred, and I think that was the reference that he was making there. In some cases -- I mean, I think he felt like they were getting paid from every transaction and...

Q. Thank you.

MR. KAUFMAN: Your Honor, we don't have any further questions on direct. We may have redirect.

JUDGE FOELAK: Would you like a break before we cross-examine?

MR. HANTMAN: I would rather continue

[p.98]

now, get a couple of questions in and then we can take a break.

JUDGE FOELAK: Okay.

CROSS-EXAMINATION

BY MR. HANTMAN:

Q. Now, Mr. Brown, what was your salary at Waste2Energy when you were hired in 2009?

A. 170,000, I believe, annually.

Q. And what were your expenses on the average, your personal expenses, entertainment, travel?

A. Probably 11, $1,200 a month, principally for living expenses. I was traveling from out of town.

Q. Mr. Bohan, what was his salary in 2009?

A. I believe he was at 250.

Q. And this for a company that had terrible financials, that was not making money?

A. I believe that is what his salary was.

MR. KAUFMAN: Objection.

Q. Excuse me?

A. I believe that is what his salary was.

Q. At the very beginning when you started

[p.99]

with the company they were in poor financial condition. Correct? That is your testimony; right?

A. They were. Yes.

Q. So you were making – how much did you say you were making?

MR. KAUFMAN: Objection. Asked and answered.

JUDGE FOELAK: Your objection is sustained.

Q. Now, you looked at – actually, let's jump around a little bit. With respect to Roz Parmased I think it is, Exhibit 54, did you ever meet her?

A. I did not.

Q. Ever speak to her?

A. I did not.

Q. You ever look at any e-mails from her?

A. I did not.

Q. Did you ever send her any e-mails?

A. I did not.

Q. Do you know who she might have talked to between October 2009 and December 2009?

MR. KAUFMAN: Objection.

[p.100]

JUDGE FOELAK: What is the basis for your objection?

MR. KAUFMAN: Lacks foundation.

MR. HANTMAN: It is fair enough. He either knows or doesn't know.

JUDGE FOELAK: Go ahead and answer. Either you know or you don't know.

THE WITNESS: Can you repeat the question, please?

Q. There was an e-mail she purportedly received sometime in October 2009. Correct?

MR. KAUFMAN: Objection.

Q. If you know. Do you know whether she ever received an e-mail from Mr. Francis Lorenzo at the request of Gregg Lorenzo and a guy named Spiro in October 2009, yes or no?

A. I do not know.

Q. You don't know that. So you don't know why she and her husband or her boyfriend, this person Vishal, you don't know why they invested $15,000, do you?

MR. KAUFMAN: Objection.

JUDGE FOELAK: You know, Mr. Hantman, reliance is not an element of a securities fraud

[p.101]

case that is an enforcement case. I thought I would mention that.

Q. I am asking, do you know why they sent the money in?

A. I do not know.

Q. Do you know if they spoke to anybody between October and December? Do you know why they waited until December to invest money?

MR. KAUFMAN: Objection. This witness can't testify what was in the mind of another person.

JUDGE FOELAK: Sustained.

Q. Now, there was a list different noteholders. I believe it is Exhibit 65. Do you want to take a look at that, please? About the 10th line down it has a Mr. Benkovsky, does it not, and shows October 1, 2009?

A. It does.

Q. You were questioned about this on direct examination. Correct, about this list?

A. I was.

Q. And was this $2 million, as far as you know, an investment or a debenture?

A. It was a debenture.

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Q. And this was in October 2009. Did you ever meet Mr. Benkovsky?

A. Did not.

Q. Do you know who he is?

A. I do not.

Q. Had you ever heard his name?

A. I have heard his name.

Q. And who mentioned his name to you?

A. I heard his name during the course of my tenure there because he was a significant investor in these securities.

Q. And in September of 2009, look at Exhibit Number 7 if you will, please. On paragraph number 1 it says that the bridge would have covered OPEX. That is operating expenses. Correct?

A. Yes.

Q. "For four months if we did not have to incur repayment of notes and significant repayments to accounting, audit and legal firms." You see that. Correct?

"It was always indicated that these would be paid out of continuing equity raise and as you can see if this were the case we would

[p.103]

have enough money for an additional two months at least."

Is that correct?

A. Yes.

Q. So is it fair to say that when this bridge money came in, these debentures, as far as the investors knew, it would have gone to do something to help enhance the business of Waste2Energy? Yes or no?

MR. KAUFMAN: Objection. The question was, I think, "as far as investors knew." This witness cannot testify about what other people knew.

MR. HANTMAN: Well, he testified as to what Mr. Lorenzo knew.

MR. KAUFMAN: No, he hasn't, your Honor, but in any event.

JUDGE FOELAK: Your objection is sustained.

Q. Let me ask you, do you know who was paid -- what accounting firm was paid out of the -- out of the raise?

A. There were two firms paid. Marcum, which was the firm that actually did the audit,

[p.104]

as well as Citrin Cooperman, which was the firm that provided accounting support for the SEC filings, particularly while there was no accounting personnel on staff prior to my arrival.

Q. Where are they located?

A. In Manhattan.

Q. Who are the principals of those two firms?

A. David Bukzin was the principal at Marcum. And Corey Massella was the main contact I had at Citrin Cooperman.

Q. Do you know where in Manhattan they are located?

A. Not specifically.

Q. Who were the audit and legal firms? You testified to this. It was read into the record. What audit and legal firms was this referring to?

A. Audit firm was Marcum, who I just referenced.

Q. The legal firm?

A. Sichenzia Ross Friedman & Ference.

Q. When Mr. Benkovsky made an investment

[p.105]

in August 2009, do you know whether he was informed that this money would be used to pay accountants and lawyers?

A. I don't know.

Q. Now, with respect to Exhibit 55 is there anything in that document which is inaccurate?

MR. KAUFMAN: Your Honor, that is a very broad question.

JUDGE FOELAK: It is indeed.

MR. KAUFMAN: It is overbroad and not fair to the witness.

MR. HANTMAN: He testified --

JUDGE FOELAK: My concern is, it is a contract. It is not like a statement of facts or something, as far as asking him whether there is something inaccurate.

Q. When is the earliest time that you realized, as one of the leading people at Waste2Energy, that this contract had little or no value?

A. Probably when -- as I got my -- was getting up to speed with the business in July, August 2009, after I joined.

[p.106]

Q. And what is the earliest -- do you have a document which you sent directly to Mr. Lorenzo which said that this contract had no value?

MR. KAUFMAN: Can I have the question read back? I am sorry.

Q. Do you have any document -- it doesn't have to be any document that is part of an exhibit list, okay? This is cross-examination.

Do you have any document that you prepared which you sent to Mr. Frank Lorenzo in which you said that this contract is of little or no value, yes or no?

MR. KAUFMAN: Objection.

A. I don't recall.

Q. Excuse me?

A. I don't recall.

Q. Do you know if anyone from Waste2Energy ever sent Mr. Lorenzo a document that said this contract, referring to Exhibit 55, is of little or no value? Yes or no?

A. I can't speak on behalf of other individuals.

[p.107]

Q. With respect to Exhibit 46, the Form 10-Q for November 2009, as far as you know, is that accurate or is it false? Is it true or false?

A. What is the exhibit?

Q. You signed it.

A. Yes, it is accurate.

Q. What led you to believe that the intangible of $10 million was worth something then?

MR. KAUFMAN: I am sorry. Which document are we talking about?

JUDGE FOELAK: 46.

A. There was no intangible in that document.

Q. So it doesn't refer to $10 million?

A. This September 30, 2009 10-Q? There was no intangibles on the balance sheet.

Q. When were intangibles first put on the balance sheet?

A. When were they first put on?

Q. Yes.

A. During 2008 upon the acquisition of a couple businesses that the company had acquired.

[p.108]

Q. So you are saying as early as 2009 it was no longer listed as an asset?

MR. KAUFMAN: Objection. Asked and answered.

JUDGE FOELAK: Your objection is sustained.

Q. The write-down was when? In July of 2009, of this $10 million?

A. It was written down and included in the audited statements for the year ending March 31, 2009.

Q. Now, Mr. Benkovsky, he invested money, he bought a debenture in August 2009. Correct, according

—

MR. KAUFMAN: Objection.

JUDGE FOELAK: I think that list said --

MR. KAUFMAN: October 1st.

JUDGE FOELAK: Yes.

MR. KAUFMAN: I think that is what the document said.

JUDGE FOELAK: That is what the document said.

Q. Well, Benkovsky -- I am a little

[p.109]

confused. You are saying --

MR. KAUFMAN: Your Honor, the only evidence that is in so far of when Mr. Benkovsky purchased is Exhibit 65, which I think the witness was shown, and the line for Mr. Benkovsky, if this is what is being referred to, says October 1, 2009.

MR. LORENZO: That is when the notes were issued. He invested --

MR. KAUFMAN: Your Honor, we would object to Mr. Lorenzo speaking out of turn.

JUDGE FOELAK: He can testify when he testifies.

Q. Do you know when Mr. Benkovsky invested, yes or no?

A. No.

Q. I won't give you a date. Do you know when he invested?

A. Based on the schedule, October 1, 2009.

Q. And did you ever tell him before then that there was going to be a write-down of $10 million in the asset?

A. Did I tell who?

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Q. Mr. Benkovsky.

A. I think I already mentioned I never spoke to him.

Q. You never met Mr. Lorenzo in person. Correct?

A. Correct.

Q. How many times did you speak to him?

A. I am not certain.

Q. Excuse me?

A. I am not certain.

Q. More than once?

A. Yes.

Q. More than ten times?

A. Yes.

Q. More than 20 times?

A. Probably, yes.

Q. Do you have any memorandum reflecting your conversations with him?

A. I don't recall.

Q. Well, before you came here today, when did you first speak to the SEC about being a witness today?

A. Six months ago.

Q. Did you contact them and volunteer or

[p.111]

did they contact you?

A. I was contacted.

Q. Who contacted you?

A. Mr. Kaufman.

Q. And what did he say to you?

A. He just asked me if I can come in and talk to hem about this case.

Q. Were you concerned that you were being investigated?

A. No.

Q. Have there ever been any charges filed against you?

A. No, there have not.

Q. Any charges filed against Mr. Bohan?

A. Not that I am aware of.

Q. Any lawsuits filed against W2Energy that you know of, any civil lawsuits?

A. Not that I am aware of.

Q. Are you named a party in any lawsuits?

A. No.

Q. Mr. Bohan?

A. Not that I am aware of.

Q. Do you know if the company has professional liability insurance?

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A. Yes, they do.

Q. With whom?

A. They had a D and O policy. I don't recall the carrier. It may have been Travelers. I am not certain.

Q. Do you know who the insurance broker was?

A. A company called William Gallagher Associates.

Q. Where are they based?

A. Atlanta, Georgia.

Q. Now, with respect to what you testified to in Exhibit Number 7, in paragraph number 1, was all the money that was raised in this bridge -- well, do you know what amount this is referring to with respect to "the bridge would have covered"? When it says "the bridge" do you know what number that is referring to?

A. I think it is the 1.5 million on the subsequent page.

Q. Was all that 1.5 used to pay accountants and lawyers and auditing fees?

A. If you can scroll to the next page I think it -- there is a schedule.

[p.113]

MR. KAUFMAN: Just to be clear, your Honor, I think what is referred to is 2.5 million, just for the record.

JUDGE FOELAK: It does says 2.5 million.

Q. 2.5 million, and then you say on the last page is how it was paid out? Look at the use of proceeds. It says "1.5 million bridge loan"?

A. Right. That is what I am looking at.

Q. This is how the 1.5 was paid out?

A. Yes.

Q. And this includes the amount that was paid to the lawyers and the legal? That is 295,000?

A. Yes.

Q. Was W2Energy, they were aware that if they gave information to Charles Vista which was negative, that would impact on the ability of Charles Vista to raise money from investors. Correct?

MR. KAUFMAN: Objection. I think the question was about what Waste2Energy knew. Again -- and it is also a compound question.

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Again, this witness can't testify about what Waste2Energy knew about anything. He can testify about what he knew or didn't know.

MR. HANTMAN: Fair enough.

Q. Did you ever discuss with Mr. Bohan that it is better not to reveal certain information to Charles Vista prematurely because it would cut off the gravy train?

A. No, I did not.

Q. With respect to this $10 million write-off, did you have any internal memorandum, you personally, any internal memo which referred to this $10 million write-off, yes or no?

A. Was there a memorandum?

Q. Yes.

A. Yes.

Q. Do you have it here today?

A. I don't have it with me. I don't know if the Securities and Exchange Commission has it. I am not sure.

Q. Aside from a memo on that -- what was the date of that memo, if you recall, that you have personal knowledge of?

A. There was a memorandum written that

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was done at the request of our audit firm during the course of the audit sometime in September of 2009 basically just going back to historically the creation of those intangibles through several acquisitions the company did and what transpired to result in the impairment of those assets.

Q. So that was in September. Is that the earliest that you recall a memorandum was prepared with respect to this $10 million write-off?

A. Yes, because I was personally involved in writing that memorandum.

Q. Okay. And that is September what?

A. 2009.

Q. Do you know who prepared this memo?

A. I did the bulk of the work.

Q. Did you send that memo, that internal memo to Gregg Lorenzo?

A. I don't recall.

Q. Did you send it to Francis Lorenzo?

A. I don't recall.

Q. Did you pick up the telephone at or about the time this memo was prepared and say,

[p.116]

"Hey, Frank, listen, this is pretty important. I am preparing an internal memorandum that says we are

going to write off $10 million"? Did you have that conversation with Mr. Lorenzo?

A. There was conversation, at least one because they were very interested in how quickly we could get the audit completed so they can begin the marketing of these securities. As such, we updated them that we had a pretty significant issue going on that we were evaluating to complete the audit and it had to do with the impairment of these assets.

Q. And when was the date of that conversation?

A. It was probably in mid-September I am guessing. I don't have an exact date.

Q. Do you have a proof of this conversation?

MR. KAUFMAN: Objection.

Q. Other than you testifying you had this conversation?

MR. KAUFMAN: Objection to "proof." It is a legal term.

Q. Well, this would be a pretty important

[p.117]

conversation, would you not agree?

A. I agree.

Q. Important enough to reduce to writing?

A. It had a memo in writing.

Q. And is that memo a part of the exhibits that you have looked over this morning?

A. I haven't had it looked over this morning, no.

Q. And you don't have that memo with you?

A. I don't have any records with me, no.

Q. This telephone conversation --

MR. KAUFMAN: Your Honor, if it would help, Exhibit 13, I think, is the memo. That would be up to the witness to testify to.

MR. HANTMAN: Thank you.

Q. I am looking at Exhibit 13 and this appears to be -- it says "Memo to file." Is that correct?

A. Yes.

Q. It doesn't indicate that this was sent to anybody, does it?

MR. KAUFMAN: Asked and answered, your Honor.

MR. HANTMAN: Well, it can be because

[p.118]

he just looked at it for the first time with Mr. Kaufman assisting me --

JUDGE FOELAK: Correct. You can go ahead and answer.

A. This memo was sent to our auditors and to Citrin Cooperman as well as to internal management. I don't recall if it was sent to Charles Vista.

Q. And was the reason it wasn't sent to Charles Vista you didn't want them to cut off the gravy train?

MR. KAUFMAN: Objection.

JUDGE FOELAK: You can answer it. Your objection is overruled.

A. No, that is not the reason.

Q. Well, then, why didn't you send it to them?

A. This was an internal document --

MR. KAUFMAN: Objection. He didn't say he didn't send it. He said he didn't remember.

A. This document was prepared at the request of our audit firm, and that was principally who -- we were trying to get

[p.119]

resolution on this impairment issue. Again, I don't recall if it was sent to Charles Vista, but they were aware of the issue.

Q. When you say they were aware of the issue, do you have any documentation from Mr. Lorenzo that says "I am aware of this issue of a $10 million issue," yes or no?

A. I don't --

Q. Yes or no?

A. I don't recall.

Q. Before you came here today, didn't you look at your records since one of the elements of what Mr. Lorenzo is accused of doing is misrepresenting this $10 million write-down?

MR. KAUFMAN: Objection, your Honor. That is not a question.

MR. HANTMAN: This is a question.

MR. KAUFMAN: It is a very argumentative question.

JUDGE FOELAK: It is. Your objection is sustained.

Q. Before you came here today, were you aware whether Mr. Lorenzo was aware or not of a $10 million write-down as a material issue, yes

[p.120]

or no?

MR. KAUFMAN: Objection.

JUDGE FOELAK: Your objection is overruled. If you understand the question.

A. Can you repeat the question, please?

Q. When you spoke to Mr. Kaufman, did he indicate to you what the nature of the charges against Francis Lorenzo were? Did he go over the charges?

A. Not specifically. Not in detail, no.

Q. You just spoke about it generally?

A. Yes.

Q. Did you ever tell him that in your opinion Mr. Lorenzo definitely knew about a write-down of $10 million in the intangible asset? Did you tell him that?

A. I told him that we had communicated to Charles Vista that this write-down was being evaluated and was the key to finalizing the audit of the 3/31/2009 financials.

Q. I am not quite sure you answered the question.

MR. HANTMAN: Can you read the question, please.

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(Record read.)

Q. That is either yes or no.

A. Did I tell who that?

Q. Mr. Kaufman.

A. Yes. I told him that Charles Vista was made aware of that.

Q. Did you tell him that Mr. Francis Lorenzo was aware of it?

MR. KAUFMAN: Objection.

Q. Yes or no?

A. I don't know whether I specifically mentioned Mr. Frank Lorenzo or Charles Vista or Mr. Gregg Lorenzo.

Q. As you sit here today, under oath, do you have any documentation from you, from you personally to Mr. Lorenzo, that says, "Frank, this $10 million intangible has been written off"? Yes or no?

MR. KAUFMAN: Your Honor, there is Exhibit 19.

MR. HANTMAN: I have the right to ask this witness himself. I think it is improper to suggest what he should be looking at when I am just asking him a question.

[p.122]

JUDGE FOELAK: Okay. You can answer the question if you remember it.

A. I don't recall. I did not bring any records from that company with me today. I did not bring records with me.

Q. Well, other than this one Exhibit 19, which I am not quite sure what this is. It doesn't look like an e-mail.

Let's look at 19 for a second, since this is the government's case.

MR. KAUFMAN: Your Honor, I would object generally to editorial comments by counsel about our case when the witness is on the stand. It is proper for opening or closing.

JUDGE FOELAK: Correct. He is not sequestered at the moment.

Q. Who prepared this document? You?

A. Yes.

Q. When did you prepare it?

A. October 5, 2009.

Q. October 5th. You prepared this for whom?

A. For Andre Zdanow.

Q. Other than this document, is there any

[p.123]

other document which refers to this intangible write-off that you are aware of?

A. Are there other documents? Yes.

Q. Other than this? You have those documents with you?

A. There were documents that were filed with the Commission that refer to this. October 1st, that we reviewed earlier.

Q. And sometime -- October when?

A. The amended 8-K and 10-Q that described this in great detail were filed October 1st.

Q. Did you have any conversations with Mr. Lorenzo personally about this memo?

A. About this memo?

Q. Yes.

A. I don't recall.

MR. KAUFMAN: I am sorry. Which memo are we talking about? I am confused.

JUDGE FOELAK: Are you referring to Exhibit 19, Mr. Hantman?

MR. HANTMAN: Exhibit 19.

MR. KAUFMAN: That is an e-mail. Okay.

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Q. Now, with respect to purchase orders and letters of intent, did you ever discuss with Mr. Lorenzo what orders, if any, W2Energy had, yes or no, you personally?

A. Yes.

Q. When?

A. I don't recall specifically when, when I would have had those conversations. But I know there was conversations -- a lot of conversations and a lot of interest about the letter of intent that ultimately was signed with St. Martin by Waste2Energy.

Q. What was the nature of the conversation?

A. I don't recall spccifically but wanting to know the value of the contract -- potential contract. It wasn't a contract. It was a letter of intent. The value of it, when they thought it would get to a point where it might go to contract. Things to that nature.

Q. What was the earliest that you had a conversation that it was not going to come to contract?

A. I don't know that I ever had a

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conversation with Mr. Lorenzo. I don't think that occurred until after he had left Charles Vista.

Q. So the subject matter of purchase orders or letters of intent for over 43 million, you are saying,

happened after Francis Lorenzo left Charles Vista? Is that your testimony?

MR. KAUFMAN: Objection. I don't think that is what the witness said.

Q. I am asking, is that your testimony? Yes or no?

A. I was just referencing any comments about that letter of intent with St. Martin.

Q. That would have been what period of time?

A. That happened sometime in 2010. Mid to late 2010 I believe.

Q. I don't want to put words in your mouth. Maybe it is unclear to me.

Is it your testimony that any conversations over purchase orders and letters of intent would not have been discussed until 2010 sometime?

A. That is not what I testified. You

[p.126]

asked specifically when did I tell him that the letter of intent was not going to convert to a contract.

Q. Right.

A. And I told you that I don't believe I ever had that conversation because that occurred after he was no longer employed by Charles Vista.

Q. Okay. That is fine.

With respect to whether Charles Vista agreed to raise additional monies or not to repay the debenture

holders, did anyone from Charles Vista ever tell you they were not going to raise money?

A. No.

Q. You don't know whether they intended to raise money or not, do you, sir?

A. No.

MR. KAUFMAN: Objection.

Q. You don't know whether they intended to raise money or not, do you, sir?

JUDGE FOELAK: Wait. There is an objection.

MR. KAUFMAN: Again, he is asking this

[p.127]

witness to testify about someone else's intent. It is really not a proper question.

Q. Weren't you asked on direct examination whether you were aware of an agreement between Waste2Energy and Charles Vista that they would raise additional monies to pay debentures? Do you recall being asked that question?

A. Yes, I recall that.

Q. Okay. But that doesn't mean that Charles Vista might not have agreed to repay debentures to certain individuals?

MR. KAUFMAN: Objection.

Q. Yes or no?

JUDGE FOELAK: It is kind of opaque and confusing.

Q. Let me ask you, do you know whether Gregg Lorenzo – he is the principal of Charles Vista; right?

A. Right.

Q. He is the main guy?

MR. KAUFMAN: Objection.

Q. In your mind, was he the main principal?

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A. That was my understanding.

Q. Was it your understanding that he was higher up than Francis Lorenzo?

A. That was my understanding.

Q. Was it your understanding that he was making the bulk of any monies generated from being the investment banker for Waste2Energy?

A. I didn't have knowledge of that.

Q. So as you sit here today, do you know what Gregg Lorenzo ever told debenture holders of Waste2Energy?

MR. KAUFMAN: Objection.

MR. HANTMAN: He can answer whether he knows. He either knows or doesn't know.

MR. KAUFMAN: If defense counsel is asking about a conversation between two people that this witness was not a part of, how can he testify about it?

Q. Did Gregg Lorenzo ever tell you that he did not promise people that he would raise monies to pay debentures? Did Gregg Lorenzo tell you "I am not going to raise money to pay these debentures holders"?

A. No.

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Q. Did Gregg Lor -- did Francis Lorenzo ever say that nobody had agreed to pay these debenture holders money?

MR. KAUFMAN: Objection. I just don't understand the question.

MR. HANTMAN: I have a lot more questions, your Honor, but if you want to take a lunch break, we can do that?

JUDGE FOELAK: That is a good idea. Is one hour sufficient?

MR. HANTMAN: That is fine.

MR. KAUFMAN: Thank you, your Honor, yes.

JUDGE FOELAK: So until a quarter of 2 then.

MR. HANTMAN: Your Honor, if I can, before going off the record, if we contact one or two of our character witnesses and they can make it after lunch, could we take their testimony out of order to accommodate?

JUDGE FOELAK: I don't know. This gentleman has travelled here. They could come tomorrow morning or whatever you want.

MR. JANGHORBANI: Your Honor, we

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object to that. We have a very small case in chief. We have Mr. Brown, Mr. Rothe for less than ten minutes and Mr. Lorenzo. We are entitled to put on our case without taking witnesses out of order because they didn't prepare.

JUDGE FOELAK: Besides, they are less likely to come this afternoon than later tomorrow.

MR. HANTMAN: To accommodate your Honor's schedule, if we don't finish today we will continue tomorrow morning at 10 o'clock?

JUDGE FOELAK: Correct. We have all week.

MR. HANTMAN: Thank you very much.

(Luncheon Recess.)

AFTERNOON SESSION

JUDGE FOELAK: I want to remind you you are still under oath from this morning.

CONTINUED CROSS-EXAMINATION

BY MR. HANTMAN:

Q. Mr. Brown, as the chief financial officer of a public company getting money from the public, what were your responsibilities and

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duties?

A. To basically oversee the use of those assets and safeguard them once they are in -- my responsibilities within this particular company were somewhat constrained only because the principal of the company, who was the sole director of the company, and Mr. Bohan, who we spoke of earlier who is CEO, really handled the bulk of the relationship, I would say, with Charles Vista in terms of dialogue surrounding the financings.

Q. Well, do you know of any reason why Mr. Bohan is not here today?

MR. KAUFMAN: Objection.

Q. Is Mr. Bohan alive? Is he alive?

JUDGE FOELAK: That is a fair question. Is he alive?

A. Is he alive? Yes, as far as I know he is alive.

Q. Do you know where he is?

A. I don't know where he is today, no.

Q. Do you know whether there is any physical impediment for him to be here?

A. I don't know.

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Q. Do you know whether he spoke to the SEC?

A. I don't know.

MR. KAUFMAN: Objection.

Q. Did you ever ask him whether he spoke to the SEC?

A. No.

MR. KAUFMAN: Objection. Calls for hearsay.

MR. HANTMAN: That is not hearsay, whether he spoke to somebody.

JUDGE FOELAK: No. He asked him -- you can answer that question, whether you asked Mr. Bohan whether he spoke to the SEC.

A. No, I have not asked him if he spoke to the SEC.

Q. Does he know that you are here today?

MR. KAUFMAN: Objection.

Q. Did you have any conversations with him about you being here today?

MR. KAUFMAN: Objection.

JUDGE FOELAK: Go ahead and answer.

A. He called me several days ago. He had been trying to call me for several weeks, and he

[p.133]

asked me if I was still involved with this case.

Q. What did you tell him?

A. I said I was and I didn't go any further.

Q. Did you tell him what your involvement was?

A. I didn't go any further.

Q. What is your educational background?

A. I have a finance degree from Clemson University.

Q. Okay.

A. I am a CPA.

Q. Okay. And after college, can you briefly give us your work experience?

A. Yes. I worked in public accounting with PriceWaterhouse three and a half years, three or three and a half years. Then I went and worked in a variety of public and private companies over the course of the next 15 years, publicly traded holding company, an insurance broadcasting operations, a pulp and paper manufacturing company for two years, a life sciences company for about seven years, pharmaceutical company.

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After we sold the life sciences company, a pharmaceutical company for about a year. And then Waste2Energy.

Q. Are you aware of whether there was a contract between Charles Vista and W2E?

A. Was there a contract between Charles Vista?

Q. A contract for Charles Vista to raise money --

A. There was an agreement, I recall, that specified the term of their compensation, yes.

Q. And do you know whether that agreement provided that W2E would disclose any material changes in the financial situation of the company?

A. I don't recall but that would be standard within that type of agreement.

Q. Would a write-down of $11 million be a material change in the financial viability of W2E, yes or no?

A. Yes.

Q. Do you know what an indenture -- I am sorry. Do you know what a debenture is?

A. Yes.

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Q. What is a debenture?

A. It is a securities and obligation to repay a debt.

Q. In this particular case the debentures were a priority so that in the event of the liquidation of the company the people who hold the debenture would get paid first, if you know?

A. I believe so, yes.

Q. So --

A. They were senior.

Q. They were senior. Okay. When you say "senior," what does that mean? Can you define what a senior --

A. Preference over non-senior securities. They would take preference over non-senior securities.

Q. So when Mr. Benkovsky or other people on the list, when they were making their investment, do you know whether they were advised of this imminent material change in the financial condition of W2E, yes or no?

MR. KAUFMAN: Objection. It is a vague question. Advised by whom?

Q. Advised by you?

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A. No.

Q. Do you know if they were advised by anyone?

A. I don't know.

Q. Now, you had stated that you began work on what? The audit of W2E in July of 2009?

A. Yes.

Q. And who worked with you on this audit?

A. Well, it was myself principally representing the company's personnel, and the staff at Citrin Cooperman. And, obviously, we were working with the staff at Marcum as well.

Q. Who were some of the staff you were working with in July 2009 at those two accounting firms?

A. I don't remember all the specific names. Citrin Cooperman, the primary gentleman was Corey Massella, and he had some staff personnel whom I don't remember their names today.

Marcum, the senior manager was a guy named John Klenner we worked with quite a bit. And I don't remember the staff persons under him at this point.

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Q. Did W2E have a board of directors at or about July 2009?

A. Yes.

Q. Who was on the board of directors?

A. Just Chris Taylor.

Q. Who is that?

A. He was the founder of the company.

Q. How old is he?

A. How old is he?

Q. Yes.

A. Now or then?

Q. Now.

A. I would guess -- I would guess -- I don't know his birthday -- he is maybe around 70.

Q. Where does he live?

A Last I know he lived in New York when I was with the company.

Q. When you say last you know, he travels like from state to state?

A. I haven't kept up with him since I left the company.

Q. When was the last time you spoke to him?

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A. 2010.

Q. When is the first time you told him that there was going to be a write-off of $11 million of the company?

A. 2009.

Q. When in 2009?

A. He was part of the discussions going back to August and September of 2009.

Q. Do you have any documentation with you now memorializing the discussions with the person on the board of directors in July, August 2009?

A. Unless they are in this binder, I don't have anything with me, no.

Q. Did the SEC ask you if you had any documentation with respect to this write-off of $11 million?

A. No.

Q. Did they ask you to supply it?

A. No.

Q. Do you have any working papers with respect to any discussions in July of 2009 concerning this $11

million write-off which would have a devastating impact on the holders

[p.139]

of these debentures?

A. No.

Q. You don't have them here, or you don't have any at all?

A. I did not take company records with me when I left the company so I don't have any at all.

Q. Who has those company records if you know?

A. I don't know.

Q. Do you know whether they were lost or stolen?

A. I don't know. I don't know.

Q. Who at the company would have these records of discussions concerning this $11 million write-off in July or August of 2009? Who would have that if you know?

A. There is no one left at the company so I couldn't tell you that.

Q. Well, when did the government contact you with respect to this case?

A. Probably middle of 2011.

Q. Was there a company then?

A. I don't recall when it was put into

[p.140]

bankruptcy but there may have still been at the time.

Q. So in July or August there were discussions concerning write-off of $11 million. Correct?

A. Yes.

Q. Is there any reason nobody at Charles Vista was notified in July or August of this imminent disastrous situation?

MR. KAUFMAN: Objection, your Honor. It assumes testimony not in evidence. I think it might even contradict testimony in evidence.

JUDGE FOELAK: Mr. Hantman?

MR. HANTMAN: I can rephrase it.

JUDGE FOELAK: Okay.

Q. Let's forget the word disastrous, okay? Were there any discussions with anyone in Charles Vista in July of 2009 concerning the potential write-off of $11 million?

MR. KAUFMAN: Discussions between who?

Q. Between you and Charles Vista?

A. In July of 2009?

Q. Yes.

A. I don't recall.

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Q. Well, that would be pretty important, would you not think so?

MR. KAUFMAN: Objection. Vague, argumentive.

JUDGE FOELAK: Your objection is sustained.

Q. Do you know whether anybody had any discussions with Charles -- Charles Vista w as your investment banker, correct?

A. They were.

Q. And they are trying to raise money for you. Correct?

A. Correct.

Q. And they are talking to outside people from the public who are going to be making investments in the company. Correct?

A. Right.

Q. Okay. So, the write-off of $11 million would be an important thing for your investment banker to know of. Yes or no?

A. Yes.

Q. So in July of 2009 -- correct me if you have answered this before -- did you tell anyone at Charles Vista you think you are

[p.142]

writing off $11 million? Yes or no?

A. I don't recall in July of 2009 if I did or did not.

Q. And you have none of the work papers here from July 2009?

MR. KAUFMAN: Objection. Asked and answered. I think this is --

JUDGE FOELAK: Objection sustained.

Q. What about August 2009? Did you have any conversations with anyone from Charles Vista?

A. I don't --

MR. KAUFMAN: About anything at all?

MR. HANTMAN: No. About this write-off of $11 million.

A. I don't recall specifically if I did in August but I know as we got -- as I got more into the process and the issues and the discussions with our audit firm, that's when I started to have more conversations with everybody involved.

Q. Well, in fact, isn't it true, sir, that the auditing firm would not sign off on your financial statements and leave the

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$11 million on there?

A. I don't recall being told that by the audit firm, no.

Q. Isn't it a fact that the auditing firm told you that with respect to this $11 million, $11 million valuation on goodwill, that they could not in good faith sign off on

it because it should be written down to zero? Didn't they tell you that, sir?

A. I don't recall if they did or did not.

Q. You are not saying they didn't tell you. You are just saying you don't recall if they told you?

A. I don't recall. I don't recall them saying that.

Q. In fact, isn't it true, sir, that you and the head of the company discussed that you would delay notifying Charles Vista of this write-off as long as possible so that you could get more money from them --

MR. KAUFMAN: Objection.

Q. -- in order to pay off bills?

MR. KAUFMAN: Objection. Asked and answered and --

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JUDGE FOELAK: I am not sure it was. Go ahead and answer if you remember.

A. No.

Q. Well, in September -- we talked about July, we talked about August. Now in September when, if any, was your first conversation with anyone at Charles Vista concerning this write-off?

A. I don't recall a specific date but it was probably in mid-September, in that time frame. Around the time that memo was being put together and finalized, reviewed through with our auditors, getting consensus

on the fact that we were going to impair that entire asset.

Q. Don't you think there was an obligation to notify your investment banker that you are even thinking about writing off the largest single asset of W2E?

MR. KAUFMAN: Objection. I think it's been asked and answered.

MR. HANTMAN: I don't think he has answered this question. It is critical.

JUDGE FOELAK: It is argumentative. You are asking him whether it was

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material, which I think he's already answered.

Q. Once you decide you are going to write off -- well, did you discuss with Charles Vista whether you should write off this asset of $11 million?

A. No.

Q. So that would be a decision you would make on your own?

A. That would be a management decision and in discussion and reaching agreement with our audit firm. Yes.

Q. And once you made that decision, you would naturally amend the PPM. Correct?

MR. KAUFMAN: Objection. I don't think -- I don't think a PPM has been discussed before. It is not clear what the question is.

JUDGE FOELAK: Perhaps you should lay a foundation.

MR. HANTMAN: That is a good point.

Q. Are you aware of any private placement memorandum that was prepared by W2E for the purpose of raising monies, yes or no?

A. Yes.

Q. And do you know whether – and as a

[p.146]

chief financial officer and somebody with a lot of experience and somebody who has worked with public companies, would the fact that an $11 million asset was going to be written off to nothing, would that be something which should be reflected in any PPM? Yes or no?

A. Yes.

Q. Do you know whether the PPM was ever amended to reflect that write-off and if so when?

A. I believe it was. Certainly the incorporation of the final set of financial statements into the PPM, which was an integral part of that document, that change was made.

Q. When?

A. When the financials were finalized on or about end of September, 1st of October.

Q. The end of September.

A. The amended SEC filing was October 1st.

Q. Was when?

A. October 1st.

Q. Now, who was on the board of directors besides that one individual you mentioned?

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A. I believe that was it.

Q. There was only one member of the board of directors?

A. I believe that was it. Just the one.

Q. Are you aware whether any board of director meetings were held in July, August or September of 2009?

A. I don't recall.

Q. Do you know whether it -- do you know whether any board of director meetings were held?

A. I don't recall.

Q. Did you attend any board of director meetings?

A. I did not.

Q. Do you know whether minutes were kept of board of director meetings?

A. I don't know.

Q. So then if there was a board of director meeting, the only person who would show up would be one person?

MR. KAUFMAN: Objection.

A. I don't know.

Q. Have you ever seen any minutes of

[p.148]

board of director meetings?

A. I don't recall.

Q. Aside from the internal memorandum -- well, let me ask you this. I direct your attention to Exhibit 30 if you don't mind, sir. Do you see it?

A. Yes.

Q. This was prepared -- well, on August 19, 2009 you wrote "For your information, as you know we filed a 12B-25 last week," and you are continuing to work on 3/31 numbers and you go on and on.

When you filed the 12B-25 last week, did that include the fact that you were writing off $11 million in assets? When I say "you," the company writing off $11 million in assets? Yes or no?

A. Did that filing include?

Q. Yes.

A. The fact?

Q. Yes.

A. I don't recall. I think that filing was just a notification that we were late in putting the exchange on notice or FINRA on

[p.149]

notice that we were late in our filing.

Q. Don't you think people should be put on notice that you are going to write off $11 million when people subsequently are putting in millions of dollars?

MR. KAUFMAN: Objection. It is argumentative.

JUDGE FOELAK: 12B-25 is just a late notice. You don't have to answer. The question is not related to the 12B-25.

Q. Is there any reason why in this August 19th memo or e-mail that you don't mention about the write down of the $11 million?

A. Is there any reason I didn't mention it?

Q. Yes, the potential write-down of $11 million, any reason why it is not mentioned in this e-mail of August 19, 2009?

A. I don't know of any reason it wasn't mentioned. It wasn't intentional or unintentional I am sure. I was answering Tom Rose's question.

Q. And Tom Rose was who?

A. He was an attorney at Sichenzia Ross.

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Q. Who did he represent?

A. He was securities attorney for Waste Energy.

Q. Exactly. And he said to you, in terms of the second page of that exhibit, where it says, "What can we do to get the Q filed," that was written by Mr. Rose or Ross?

A. Yes.

Q. And then he goes, "I don't see how CV --" that is Charles Vista?

A. Yes.

Q. "-- can sell anything when the company isn't current in its filings." You see that?

A. Yes.

Q. Then he says, "Are they aware this is coming?" You see that?

A. I see it.

Q. Did you read it at the time he sent that to you?

A. Yes.

Q. And did you respond to him?

A. I did respond.

Q. And what did you respond?

A. Scroll up, please?

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MR. KAUFMAN: Your Honor, the e-mail speaks for itself if that is what the question is.

JUDGE FOELAK: It does.

Q. Well, why didn't you mention about potential write-down of the $11 million?

MR. KAUFMAN: Objection. Asked and answered.

JUDGE FOELAK: Has it been asked and answered?

MR. KAUFMAN: Yes.

MR. HANTMAN: Not with respect to this chronological order I am going in.

MR. KAUFMAN: The question is why in this e-mail exchange did you not talk about that, and the witness answered the question.

JUDGE FOELAK: Yes, he did.

Q. Other than saying that this is your answer here, when was the next time that you wrote to the law firm, if ever, and told them of the write-down of $11 million?

A. I don't recall.

Q. Well, do you have any correspondence between you and the law firm, Mr. Ross,

[p.152]

indicating an update on your decision to write off $11 million, yes or no?

A. I don't know if there is anything in writing but there were frequent phone calls updating them on the progress towards getting the issues involved.

Q. Aside from certain phone calls, don't you think, as chief financial officer, there should have been like a sit-down meeting, some emergent meeting with the lawyers and particularly with your investment banker to let them know in July or August of this impending write-down of $11 million?

MR. KAUFMAN: Objection. Lack of foundation, irrelevant, argumentative.

JUDGE FOELAK: Foundation?

Q. Let me ask you, was it customary for you to communicate with the lawyers for W2E?

A. Generally by phone. Often by phone, yes.

Q. What about by e-mail?

A. Generally we spoke by phone.

Q. And generally would you keep minutes or keep a memorandum or a record of what you

[p.153]

talked about?

A. No.

Q. Why not?

A. Just don't. I didn't at the time.

Q. Is that the commonly recognized practice of public companies, that when they speak to the lawyers they don't keep any notes of the conversations?

MR. KAUFMAN: Objection. Foundation, relevance, argumentative.

JUDGE FOELAK: I tend to agree.

Q. Other than this August 19th e-mail and then there is an internal e-mail of October 5, 2009, are you aware of any other documentation that was sent to Mr. Lorenzo concerning the write-down of the $11 million from you?

A. I don't recall specifically anything in writing.

Q. Do you have any records in which you called Mr. Lorenzo and said, "Frank, there is a write-off of $11 million. I just want to make sure that you guys know about this"?

A. Do I have records?

Q. Yes.

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A. I have already answered that. I don't have any records.

Q. Did you ever say that to him?

A. Yes. We had a conversation –

Q. When was –

MR. KAUFMAN: Your Honor, the witness was answering the question and was interrupted. I think it was asked and answered anyway.

JUDGE FOELAK: Let him answer.

Q. I am sorry. Go on.

A. Yes, we had a conversation around mid-September when we got to the point where we had finalized the fact that there was going to be a write-down, a total impairment of that asset.

I spoke with one or both of Frank and/or Gregg Lorenzo on the phone at least once. I don't remember the exact date or time of day, but definitely that was communicated to them.

They were aware that that was the big issue that -- that in addition to payment for services previously rendered were the two big issues of trying to get through the audit.

Q. Do you recall whether you spoke to

[p.155]

Gregg Lorenzo or you spoke to Frank Lorenzo?

A. I don't remember if it was a conference call and they both were on or not but there was a phone call made. I believe Frank was on at a minimum and I don't know whether Gregg was on or not.

Q. Do you know whether he was on or do you recall you think he was on? I am not asking you to guess.

MR. KAUFMAN: Your Honor --

JUDGE FOELAK: Let him answer.

A. I believe Frank was on the call because Frank had been my primary important contact within Charles Vista. I spoke with Frank more frequently than I did Gregg.

Q. And what did you say to him and what did he say to you?

A. I don't recall the specifics of the conversation.

Q. You don't recall the specifics and you don't have any notes of the conversation. Correct?

A. Correct.

Q. And you didn't send any subsequent

[p.156]

e-mail to him confirming the subject of the conversation. Correct?

MR. KAUFMAN: Your Honor, other than the exhibit that we have seen several times?

Q. Other than what we have seen. But even that doesn't say "This is to confirm my conversation with you," does it?

MR. KAUFMAN: Speaks for itself.

Q. Does it, sir?

A. It is as it was written.

MR. HANTMAN: If I can just have a moment, your Honor?

JUDGE FOELAK: Certainly.

(Pause.)

Q. Is there any reason, when you first were discussing the potential write-down of this $11 million asset in July or August, that you did not contact your investment banker?

MR. KAUFMAN: Objection. I don't think the testimony is that he didn't contact them. I think it was that he didn't remember whether he had.

JUDGE FOELAK: I guess the testimony is whatever it is.

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MR. HANTMAN: At the risk of being repetitive, this is an important question.

Q. Do you recall, did you call your investment banker, did you personally call your investment bankers --

A. I don't recall if I did specifically. I am pretty sure I didn't in July. But I did know that Mr. Bohan and Mr. Taylor were both in much more frequent contact with the principals of Charles Vista and was told by Mr. Bohan that they were aware of it -- that was in July when I was just diving into everything that was going on with this company.

Q. Do you know of any reason why -- you think they would have a better recollection of what communications there were with Charles Vista than you?

A. I can't answer for them.

MR. KAUFMAN: Objection.

Q. Hmm?

A. I can't answer for them.

Q. Do you know of any reason why they are not here as witnesses?

MR. KAUFMAN: Objection.

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JUDGE FOELAK: That is not for him to answer. Your objection is sustained.

Q. As you sit here now, wouldn't you agree it would have been in the best interest of the holders of these debentures to have known as early as July or August that there was an intent to write down the $11 million goodwill intangible, yes or no?

MR. KAUFMAN: Objection. Your Honor, we really have to clarify what debentures we are talking about because the 12 percent debentures issued in this case were not sold until October.

JUDGE FOELAK: I think that is his point.

MR. HANTMAN: That is my point. They were sold in October yet in July and August –

JUDGE FOELAK: I think his point is, before putting their money in, wouldn't it have been good for them to know?

MR. HANTMAN: The other point is, to rely on one e-mail to say this man should be disbarred or penalized when there could have been –

MR. KAUFMAN: Your Honor.

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JUDGE FOELAK: That is something for your brief, not a question for this witness.

Q. Did you ever discuss – well, when was the PPM ever amended to reflect write-down of the $11 million?

A. When was it amended?

Q. Yes.

A. It would have been toward latter part of September once the audited financials were confirmed, signed off on by the audit firm.

Q. This would have been at the end of September?

A. The latter part of September.

Q. What were the implications of a write-down of $11 million in intangible goodwill on the debenture holders?

A. What were the implications?

Q. Yes.

A. Well, it was a non-cash write-off of about $11 million. Certainly changed the balance sheet valuation of the company and from an investor's standpoint that number prior to being written down was a perceived value of the technology that had been acquired and was the

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foundation of the technology used in the business.

Q. So what happened between, say, June and July or August which resulted in what was previously supposedly a bona fide asset becoming worth zero?

A. I can only speak from the time I joined the company and started to understand the issues. So anything prior to first week of July 2009 I can't speak to.

There was – there were questions within the company itself about the value of those assets. I asked questions, there were questions internally. That whole

dialogue got into the crux of really what the audit major issue was, was what, if any, value is there to these assets going forward.

Q. Let me apologize, because you did get involved with this situation at a much later period of time. But isn't it a fact that once you did get hired and you took a focus as to what is going on that you even told people at W2E that this was a big problem and that you saw no need to keep this $11 million on the books

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and that it was wrong not to advise the investment banker of what's going on? You were like the white knight? You came in --

MR. KAUFMAN: Objection, your Honor. I don't know how many questions there are here but there are a bunch of them and they are mostly argumentative.

MR. HANTMAN: I will rephrase that.

Q. When you first got wind of what was going on, isn't it a fact, based upon your integrity and your experience, that you told the company that they had an obligation to notify Charles Vista as soon as possible and make a big deal and treat this as important as it was and let them know of the write-down?

A. Yes. I mean, it was an obligation and I was -- had been told that they were aware of it, that they had been aware that there were concerns about the valuation of this in the past.

Q. And you were also told -- let me remind you, you are under oath and your obligation is to tell the truth here. Okay?

You were also told "Listen, let's drag

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this out as long as possible –"

MR. KAUFMAN: Objection. Asked and answered.

Q. "– until the filing so we can get more money to pay bills"?

JUDGE FOELAK: Counsel, haven't you asked that question several times, including the term "gravy train" several times?

MR. HANTMAN: If your Honor recalls that I have, I will defer to your judgment.

Q. When did you first discuss any contingency plan with Charles Vista with respect to the write-down of this asset?

MR. KAUFMAN: Objection to –

Q. Did you ever discuss a contingency plan with Charles Vista?

MR. KAUFMAN: Objection. Vague. What is a contingency plan?

Q. Have you ever heard the words "contingency plan"?

A. I have heard of the words "contingency plan."

Q. What is your understanding of the words "contingency plan"?

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A. It is a plan to do something as a back-up.

Q. So knowing -- when you got involved with the company, knowing that they were cash poor, knowing that things were not going too well, did you have any idea what the result would be on the ability to raise money if the $11 million was written off the books?

A. Did I have any idea?

Q. Yes.

A. I don't recall specifically. I certainly would have relied upon the expertise of the investment banking firm to advise us of that.

Q. Well, did they participate in the meetings in July?

A. Which meetings are you referring to?

Q. The meetings when you started talking about possibly writing off the 11 million.

A. I don't recall -- they were not at any meetings in person with me.

Q. What about in August?

A. I never met in person with anybody from them, so I never had any in-person meetings

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with Charles Vista personally.

Q. Did anyone from your company ever have any personal meetings --

A. Yes.

Q. -- in July, August or September?

A. I believe so, yes.

Q. Who?

A. Mr. Taylor and Mr. Bohan I am pretty sure did.

Q. Is Mr. Taylor a witness?

MR. KAUFMAN: Objection, your Honor. At this point I am going to raise a general objection to where this is going. I think the extent of the witness's knowledge has been established and his knowledge of the facts, well-established. Seems like we are going in circles.

MR. HANTMAN: Your Honor, I am not going to belabor this. I think we have gotten as much as we can from this witness. Thank you.

JUDGE FOELAK: Thank you.

MR. KAUFMAN: Just a couple of questions on redirect, your Honor.

JUDGE FOELAK: Okay.

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MR. KAUFMAN: First of all, Exhibit 13, I think, was not introduced into evidence. We'd just like to offer it. I think it has been adequately authenticated but the witness can testify about it if necessary. This is the memo.

JUDGE FOELAK: The memo that was discussed in cross-examination. Okay. Exhibit 13 is admitted.

(So received in evidence as Division Exhibit 13.)

MR. KAUFMAN: This is sort of another housekeeping matter. I think it is. Exhibit 42, if we can put that up on the screen? It is essentially another version of Exhibit 19. There is one difference. This is the October 5th e-mail that Mr. Brown sent to Mr. Zdanow, Mr. Bohan and Mr. Lorenzo and then it looks like it was forwarded to Gregg Lorenzo by Andre Zdanow. We will offer this into evidence because it is just a clearer version of the same document.

JUDGE FOELAK: Hearing no objection, Exhibit 42 is admitted.

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(So received in evidence as Division Exhibit 42.)

MR. KAUFMAN: The only thing I wanted to clarify with the witness, your Honor, a couple of things.

REDIRECT EXAMINATION

BY MR. KAUFMAN:

Q. You were asked some questions about the private placement memorandum for the 12 percent debentures. Do you recall that?

A. Yes.

Q. What was the extent of your personal involvement with respect to the private placement memorandum?

A. More or less as a reviewer of the document. The bulk of the content of it had been developed by the outside legal counsel and a lot of it had been done, I think, prior to my arrival and as I was more focused on the audit, per se. There was work going on on that in the background with legal counsel.

Q. Is it fair to say the PPM was not a significant focus of your job at the time?

A. That is fair to say, yes.

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Q. The 12 percent debenture offering, again, that we talked about before, when did that offering begin?

A. October 1st is when -- it launched after we got current on our filings.

Q. In other words, that is when they were first sold?

A. When they were first sold. Yes.

MR. KAUFMAN: That is all we have, your Honor.

MR. HANTMAN: I just have a little bit on this one exhibit.

JUDGE FOELAK: Okay. Recross.

RECROSS-EXAMINATION

BY MR. HANTMAN:

Q. If you can look at Exhibit 13? Do you see it?

A. Yes.

Q. It says "Memo to file." Correct?

A. Yes.

Q. Does it say who prepared this memo?

A. This does not.

Q. Do you know who prepared it?

A. The bulk of it was prepared by me.

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Q. Is this the most comprehensive explanation as to why the $11 million is being written off that you are aware of?

MR. KAUFMAN: Your Honor, this is beyond the scope of the redirect.

JUDGE FOELAK: That is okay. Go ahead and answer.

A. I am not aware of any other documents outside of this. This was intended to be a summary of a variety of conversations and basically was an opportunity for me to kind of pull everything together that I had gathered during my fact-finding once I got on board with the company.

Q. And it was your decision that it was more prudent, before you shared this with Charles Vista, you wanted to share this with your colleagues at W2E. Correct?

A. Well, not only with my colleagues within the company but with the accounting firm as well.

Q. Do you know why -- was this ever sent to Charles Vista, this memo itself?

MR. KAUFMAN: Asked and answered.

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A. I don't recall.

Q. Was the write-down of the potential $11 million ever disclosed in writing to the investors?

MR. KAUFMAN: Objection. We are back at, I think, the original cross.

JUDGE FOELAK: I think we are.

Q. What, if anything, happened as a result of this memo?

MR. KAUFMAN: Objection. Vague and, again, beyond the scope.

MR. HANTMAN: Your Honor, apparently this was not put into evidence and then Mr. Kaufman put it into evidence, which I have no problem with. After his direct he put it into evidence. I understand it might have been inadvertent but I have an obligation or the right to cross-examine him on something that is evidence in the case.

MR. KAUFMAN: We ask that the question be rephrased in a way that everyone can understand it.

JUDGE FOELAK: Okay. Sounds good.

Q. Did you get any response to this memo

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that you prepared for the file on September 16, 2009?

A. Did I get any response?

Q. Yes.

A. From whom?

Q. From anyone.

A. I don't recall. I am sure the audit firm probably had some maybe questions or things they wanted to further clarify. But I don't recall if I had specific responses.

Q. Do you have any memorandum indicating that you had any responses?

A. No.

Q. Do you have any memorandum indicating that you ever sent this to Charles Vista?

A. Do I have a memorandum?

Q. Yes.

A. That I sent this to them? No.

Q. Do you have any proof that this was ever sent to Charles Vista or to Francis Lorenzo?

MR. KAUFMAN: Objection. The witness has testified that he doesn't recall sending it to Charles Vista.

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MR. HANTMAN: He doesn't recall.

Q. But do you have any indication in the memo that it was sent to Charles Vista?

A. I don't recall.

Q. Do you know of any reason why this wouldn't be sent to your investment banker?

A. I don't recall whether it was or was not.

Q. As you sit here now, wouldn't you agree that something this important, which is a summary of your findings on a $11 million write-down should be sent to your investment banker?

A. Again, I believe it was communicated to them verbally. I don't recall specifically if this in-depth write-up was provided to them. I just don't recall.

MR. HANTMAN: Thank you.

MR. KAUFMAN: Nothing further, your Honor.

JUDGE FOELAK: Okay. Thank you for your testimony, Mr. Brown. You may step down.

THE WITNESS: Thanks.

MR. KAUFMAN: Your Honor, the Division

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is calling, by telephone, William Rothe.

(Speakerphone call placed.)

MR. KAUFMAN: Mr. Rothe, this is Jack Kaufman. We are in the courtroom.

JUDGE FOELAK: This is Judge Foelak. I understand you are in California.

MR. ROTHE: Yes.

JUDGE FOELAK: I will put you under oath.

Whereupon,

WILLIAM ROTHE,

having been first duly sworn/affirmed, was examined and testified as follows:

JUDGE FOELAK: Please proceed.

DIRECT EXAMINATION

BY MR. KAUFMAN:

Q. Mr. Rothe, this is Jack Kaufman. Can you, please, state and spell your full name for the record?

A. William Rothe, spelled R-O-T-H-E.

Q. Where do you reside, sir?

A. Santa Rosa, California.

Q. Is that where you are now?

A. Yes.

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Q. How old are you, sir?

A. 67.

Q. Are you currently employed?

A. I work for myself.

Q. In what sort of capacity?

A. I am a private lender to real estate and an investor in real estate and I grow grapes.

Q. Are you familiar with an entity called Charles Vista?

A. Yes.

Q. How do you know Charles Vista?

A. I brought a hundred shares of stock through them some years ago.

Q. Do you remember what year that was?

A. I think it was 2008 or it would have been early 2009.

Q. So is it fair to say that you were a customer of Charles Vista?

A. I was a customer. Yes.

Q. Did you have an account there?

A. Yes.

Q. During what period of time were you a customer at Charles Vista?

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A. I was a customer from the time I bought the stock, which would have been again probably early 2009, and until about two months ago when I sold the stock.

Q. And how long did you hold a brokerage account there?

A. For that period of time from 2009 until maybe two months ago.

Q. Do you have a document that has been marked as Exhibit 49?

A. Yes.

Q. And the first page of that says "Premier account statement for Charles Vista, William Rothe." Do you have that in front of you?

A. Yes.

Q. Can you just tell us what that document is?

A. It is a period ending September 30, 2009 showing the portfolio value as of that date.

Q. Is this your Charles Vista account statement for that period?

A. Yes, it is.

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MR. KAUFMAN: The Division offers Exhibit 49.

JUDGE FOELAK: Hearing no objection, Exhibit 49 is admitted. But, counsel, you should take out his home address and any other type of personally identifying information.

MR. KAUFMAN: Objection. We will redact that before we submit it to the Court.

(So received in evidence as Division Exhibit 49.)

Q. Mr. Rothe, did you receive any other account statements other than this?

A. I did. I think I received one a month.

Q. Both before and after September 2009?

A. I would have received them immediately after I purchased the stock and then through until I sold the stock.

Q. In other words, you received account statements up until relatively recently?

A. Yes.

Q. Did you have an individual assigned as a broker to you as Charles Vista?

A. There was a name on my account, and I

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do not remember or do not recall the person with whom I placed the order and do not recall anybody I talked with after that.

Q. Did you understand that you had a personal broker there or not?

A. They had a name on there so if I needed – if I had any questions I had a name and a number I can call; yes.

Q. This document says Jason Cabrerra. Is that the person you are referring to?

A. That would be who I would call on my account, yes. I don't know if I ever talked to Mr. Cabrerra or not.

Q. Let me ask you to look at -- do you have another document that has been marked Exhibit 34?

A. Yes.

Q. I just want to refer to the third and fourth pages of that document.

A. Yes.

Q. This appears to be an e-mail from Francis Lorenzo dated October 14th to a W.S. Rothe at Sbcglobal.net. October 14, 2009. Was that your e-mail address at the time, Mr. Rothe?

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A. Yes, and it still is.

Q. Did you receive this e-mail –

A. Yes.

Q. Sorry. Let me ask the full question. Did you receive the e-mail on October 14, 2009?

A. I am presuming I did, yes.

Q. Did you ever open the e-mail?

A. Yes.

Q. When did you open it?

A. On the 16th.

Q. Of October, 2009?

A. Yes.

Q. How do you know that?

A. I was on my way to live on the other side of the world and I was clearing my spam account in which this e-mail arrived and I wanted to read it at a later date so I forwarded it to myself in my in-box on the

16th and then presumably read it at some time later, living on the other side of the world.

MR. KAUFMAN: The Division offers Exhibit 34.

JUDGE FOELAK: Exhibit 34 is admitted.

(So received in evidence

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as Division Exhibit 34.)

Q. I can't remember -- I am not sure if I heard your answer but did you ever read this e-mail?

A. Yes. I am presuming I did.

Q. When did you read it?

A. It would probably have been three or four days after the 16th.

Q. The e-mail refers to 12 percent debenture. Did you ever invest in that?

A. No.

Q. Did you ever invest in Waste2Energy at all?

A. No.

MR. KAUFMAN: A moment, your Honor?

JUDGE FOELAK: Yes.

(Pause.)

MR. KAUFMAN: No further questions at this time, your Honor.

JUDGE FOELAK: Mr. Hantman?

CROSS-EXAMINATION

BY MR. HANTMAN:

Q. Mr. Rothe, have you ever met Francis Lorenzo?

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A. No.

Q. Have you ever spoken to Mr. Lorenzo?

A. I do not recall.

Q. Have you ever heard of Francis Lorenzo?

A. Yes.

Q. From whom?

A. Through Charles Vista.

Q. When was that?

A. Well, I think that Francis Lorenzo is one of the officers or one of the principals of Charles Vista.

Q. And who told you that?

A. Well, it is on his e-mail on October 14th. Francis Lorenzo, vice president investment banking.

Q. Aside from this e-mail, was there anything else he ever sent you?

A. No, that I can think of. I received several other e-mails on W2E, Waste2Energy, but they did not -- no, they didn't come from Francis Lorenzo.

Q. And as a result of retrieving this from your spam, what, if anything, did do?

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A. I am sorry. Can you repeat that a little louder, please?

Q. After you retrieved this from your spam file what, if anything, did you do in response to this e-mail?

A. Nothing.

Q. And you didn't lose any money. Correct?

A. Can you repeat that again, please?

Q. You never invested as a result of this e-mail; correct?

A. No, I did not.

Q. And you never called anybody at Charles Vista to discuss this e-mail, did you?

A. No.

MR. HANTMAN: No further questions.

MR. KAUFMAN: That is it, your Honor.

JUDGE FOELAK: Okay. Thank you for your testimony, Mr. Rothe, and we are going to ring off now.

MR. KAUFMAN: Thank you, Mr. Rothe.

THE WITNESS: Thank you.

(Phone call ended.)

MR. JANGHORBANI: The Division calls

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Francis Lorenzo.

Whereupon,

FRANCIS LORENZO,

having been first duly sworn/affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. JANGHORBANI:

Q. Good afternoon. Could you, please, state and spell your full name for the record?

A. Francis Lorenzo -- V. Lorenzo, F-R-A-N-C-I-S.

Q. V for Vincent?

A. Vincent. L-O-R-E-N-Z-O.

Q. How old are you, sir?

A. 52.

Q. You live in Westwood, New Jersey. Correct?

A. Yes, I do.

Q. You worked at Charles Vista from February 2009 to February 2010. Correct?

A. Yes.

Q. You were Charles Vista's director of investment banking. Correct?

A. Yes, I was.

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Q. Charles Vista was a brokerage firm. Correct?

A. Yes, it was.

Q. And an investment bank. Correct?

A. Yes, it was.

Q. And Charles Vista's role as an investment bank was to raise money for its clients. Correct?

A. One of them.

Q. Generally that is what it did for its investment banking clients; it helped them raise money. Correct?

A. The ones I was working on, yes, that's what they did.

Q. And Charles Vista's investment banking clients, just so we're clear, those were companies. Correct?

A. Correct.

Q. Now, part of your job at Charles Vista was to do due diligence on investment banking clients. Correct?

A. Prepare due diligence.

Q. And part of your job was to review investment banking clients' financial

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statements. Correct?

A. Yes, it was.

Q. You understood that that was one of the requirements of your job. Correct?

A. Yes, it was.

Q. Now, if an investment banking client was a public company it was also part of your job to review the company's public files with the SEC. Correct?

A. Yes, it was.

Q. And part of your job was to look at your client's assets and liabilities. Correct?

A. Correct.

Q. In other words, the balance sheet. Correct?

A. Correct.

Q. And part of your job was to prepare offering documents. Correct?

A. Assist with preparation, yes.

Q. But you had a hand in preparing offering documents to your clients. Correct?

A. For the corporate investment banking clients, yes.

Q. Thank you. I am saying clients as

[p.184]

shorthand for investment banking clients but thank you for reminding me of that.

And another part of your job was to make sure that your investment banking clients had all material disclosures in place. Correct?

A. Absolutely.

Q. Now, back in 2009 you were a registered representative. Correct?

A. Yes.

Q. Of Charles Vista; right?

A. Correct.

Q. And you had a Series 7 license?

A. Yes, I did.

Q. You still have a Series 7?

A. Yes, I do.

Q. Now, you had experience in investment banking before you joined Charles Vista. Correct?

A. Yes, I did.

Q. In fact, you had vast experience; right?

A. Vast? Yeah, I guess. I guess it is a matter of interpretation. Yeah, I'd say that's accurate.

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Q. And starting in 1986 you worked at a firm called Spear, Leeds & Kellogg. Correct?

A. Correct.

Q. When did you work -- from 1986 until when?

A. Until the crash in '87.

Q. '86 to '87. And you were an arbitrage trader. Correct?

A. On the American Stock Exchange, yes.

Q. You were an arbitrage trader on the American Stock Exchange?

A. Correct.

Q. I was just making sure I heard you.

In January '97 you formed something called Loren investment group. Correct?

A. Correct.

Q. You worked there until February of '01?

A. That sounds accurate. It is going back a ways but, yes.

Q. That sounds right?

A. Yes.

Q. At Loren you advised companies and how to go public. Right?

[p.186]

A. Correct.

Q. And how to raise capital. Correct?

A. Correct.

Q. Raising capital, that means raising money; right?

A. Yes.

Q. Capital is money? You have to answer audibly.

A. Yes, that is correct.

Q. Now, in 2001, you founded a company called OTC Solutions LLC.

A. That is correct, yes.

Q. The "OTC" stands for over the counter?

A. Over the counter, yes.

Q. You were the CEO of that company?

A. Yes.

Q. That is chief executive officer?

A. Correct.

Q. And OTC's business was to assist microcap companies with capital formation; correct?

A. Among others things, yes.

Q. That was parts of its business. Correct?

[p.187]

A. Correct.

Q. Again, when we talk about capital formation, you understand that means raising money. Correct?

A. That is correct.

Q. Another part of OTC's business was to help companies with public financing. Correct?

A. Yes.

Q. That means selling securities to the public. Correct?

A. I couldn't sell securities. I'd get –

Q. That means that the company – the client of OTC would sell securities to the public?

A. The client of the OTC.

Q. That is what public financing is; correct?

A. Yes. I thought you meant me.

Q. In February 2007, you went to work for a company called Mercer Capital?

A. That is correct.

Q. And Mercer was a registered broker-dealer?

[p.188]

A. Correct.

Q. And you were the investment banker for Mercer. Correct?

A. Yes, I was.

Q. You left Mercer at the end of 2007. Correct?

A. Yes.

Q. December?

A. November, December, something like that, yes.

MR. JANGHORBANI: Mr. Chan, can I ask you to put Division Exhibit 25 on the screen?

Q. Can you see that, Mr. Lorenzo?

A. Not yet -- I see it.

Q. This is 25. We have all the same documents in hard copy in front of you.

This document says "U-4 employment form, individual name Lorenzo, Francis V." You see that?

A. Yes, I do.

Q. This appears to be an employment history for you. Correct?

A. Correct.

Q. And it appears to be accurate.

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Correct?

A. Yes.

MR. JANGHORBANI: I move the admission of Division Exhibit 25, your Honor.

JUDGE FOELAK: Division Exhibit 25 is admitted.

(So received in evidence as Division Exhibit 25.)

Q. You left Mercer, I believe you said, in December 2007. Do I have that right?

A. Yes. I am cut off at John Thomas here. I can't see Mercer but --

MR. JANGHORBANI: Mr. Chan --

A. Oh, there it is. I got it.

MR. JANGHORBANI: And you can take the document down, Mr. Chan.

Q. Now, in February 2008, you started working at John Thomas Financial; right?

A. Yes, I did.

Q. That is also a broker?

A. Yes.

Q. And an investment bank?

A. Yes.

Q. You were there their investment

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banker; right?

A. One of them, yes.

Q. And you left in December '08. Correct?

A. I think it was November but it could be December.

Q. That was to join Charles Vista?

A. Well, no.

Q. Withdrawn. You joined Charles Vista in February '09. Correct?

A. Correct.

Q. You are familiar with a company called Waste2Energy Holdings, Inc. Correct?

A. Yes, I am.

Q. That was an alternative energy company?

A. Correct.

Q. And its business was it developed technology to burn waste in order to turn that waste into energy. Correct?

A. That is correct.

Q. Now, you first heard of Waste2Energy when you were an investment banker at Mercer. Right?

[p.191]

A. Yes, I did.

Q. In fact, Mercer helped Waste2Energy sell $6 million in shares. Correct?

A. That is correct.

Q. And Waste2Energy became an investment banking client of Charles Vista's. Correct?

A. Yes, it was.

Q. That was in approximately March of 2009?

A. Give or take, that sounds accurate.

Q. March or April 2009?

A. Something like that.

Q. And Charles Vista helped Waste2Energy sell securities. Correct?

A. That is correct.

Q. Charles Vista helped Waste2Energy sell equity; correct?

A. Yes.

Q. About 1.2 million worth?

A. I thought it was less than that but it's been a while. I know they did an equity round at the time they did the reverse merger but I didn't think it was 1.2.

Q. Charles Vista helped Waste2Energy sell

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2 and a half million dollars in short-term debt. Correct?

A. That is correct.

MR. JANGHORBANI: Your Honor, I would like to read -- well, let me withdraw that.

Q. Mr. Lorenzo, can I ask you to turn to the binder labeled "Testimony transcripts"? It is the skinny binder at the bottom.

A. Got it. Yes.

Q. Can I ask you to turn to page 205? You see there are four numbered pages per each actual page?

Well, before I do that, you recall giving testimony to the staff of the SEC on November 12, 2009?

A. November 12th?

Q. Yes, 2009.

A. Yes.

Q. And you were under oath during that testimony. Correct?

A. Yes, I was.

Q. And you told the truth during that testimony. Correct?

A. Yes, I did.

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MR. JANGHORBANI: Your Honor, I would like to read an admission.

MR. HANTMAN: Your Honor, I object. I think the proper format would be to ask him a question and if his answer is different, then you point out the inconsistency in the deposition testimony.

MR. JANGHORBANI: Your Honor, I am not offering it for impeachment, although I could. I am offering it as an admission against party opponent under Rule 802 of the Federal Rules. It is not hearsay. It's an exception from hearsay and I am allowed simply to read it.

JUDGE FOELAK: The Commission has ruled that excerpts from investigative testi.nony can be admitted. Plus you could also use it for impeachment.

MR. HANTMAN: As long as it is not out of context because I am not sure what he is --

JUDGE FOELAK: I understand what you mean.

MR. JANGHORBANI: It is page 205.

JUDGE FOELAK: Mr. Hantman was referring to the idea that you could pluck a

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sentence standing by itself out of context and it would mean something completely different.

MR. JANGHORBANI: I had planned, your Honor, to read a passage of full questions and full

answers. Page 205, lines 7 to 24. May I read, your Honor?

THE WITNESS: Lines 70?

MR. JANGHORBANI: Page 205, line 7 to 24.

JUDGE FOELAK: Line 7, not 70.

THE WITNESS: Okay.

MR. JANGHORBANI: May I read, your Honor?

JUDGE FOELAK: Okay, you can read it.

MR. JANGHORBANI: "Question. How much money was raised?

"Answer: I have to double check. I believe it is 3.5, 4 million, give or take. No, no, I take that back. I am sorry. My mistake. 1.2 million worth of equity was raised. About 2.5 million of short-term notes were raised right after the equity round."

Q. Did I read that correctly, Mr. Lorenzo?

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A. Yes, you did.

Q. Now, Waste2Energy was Charles Vista's biggest client; right?

A. Yes, it was.

Q. And while you were at Charles Vista you worked exclusively on Waste2Energy. Correct?

A. No. Well, up until October when China Baicaotang came in. September, October there was a China deal that came in.

Q. But China Baicaotang, Charles Vista wasn't the banker on that deal, was it?

A. We were the selling group on the deal.

Q. For investment banking clients isn't it the case that your sole and exclusive investment banking client, you personally while you worked at Charles Vista, was Waste2Energy?

A. Well, I founded -- I brought China Baicaotang into Charles Vista and worked on the memorandums with Larry Nussbaum and ND Capital. As far as proprietary client, it was Waste2Energy. Charles Vista was selling China Baicaotang in September and October.

Q. You gave testimony to the Commission

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on July 26, 2012. Correct?

A. July 26, 2010? Okay.

Q. Is that correct?

A. Yes, I did.

Q. And you were under oath during that proceeding. Correct?

A. Okay.

Q. I'm asking you. Is that correct?

A. Yes.

Q. And you answered questions truthfully. Is that correct?

A. Yes, I did.

MR. JANGHORBANI: Your Honor, I would like to read from page 18, line 21 to page 19, line 3. May I read, your Honor?

JUDGE FOELAK: Let's wait until Mr. Hantman gets there.

MR. HANTMAN: Thank you, your Honor.

JUDGE FOELAK: Go ahead.

MR. JANGHORBANI: "Question: Did you continue to review public filings of a company after it hired Charles Vista?

"Answer: Well, I worked fully and exclusively on Waste2Energy. So there was a

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China company called China Baicaotang but we weren't the banker on that deal. Charles Vista, when I was there, when you mention companies, there wasn't any companies. It was just Waste2Energy."

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes, you did.

Q. Okay. And you did due diligence to Waste2Energy. Correct?

A. Well, I think it depends on how you define due diligence but I prepare a questionnaire. I put the documents -- I answered the questionnaire with the company.

Q. And you consider that due diligence. Correct?

A. Yes.

Q. And you reviewed Waste2Energy's SEC filings. Right?

A. Correct.

Q. That was part of your job as director of investment banking. Correct?

A. Yes, it was.

Q. In fact, you reviewed Waste2Energy's

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filings immediately after they were filed. Isn't that right?

A. I reviewed them, yes. Looked through them, yes.

Q. You reviewed them within 48 hours of them being filed. That was your practice, wasn't it?

A. Yeah.

Q. Is that a yes?

A. Yes, that's correct.

Q. During your time at Charles Vista Waste2Energy was start-up company. Correct?

A. Yes, I guess that would be accurate.

Q. It was an early stage company?

A. Early stage. Yes.

Q. It wasn't profitable; right?

A. No.

Q. In fact, its financial situation wasn't good at all, was it?

A. It wasn't.

Q. Its financial well-being was horrible, wasn't it?

A. That is correct.

Q. And you certainly understood that by

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September 1st of 2009, didn't you?

A. I certainly knew that by September 1st? Well, their financial situation was horrible from the beginning, yes, so that would be accurate.

Q. And, in fact, during your time at Charles Vista, Waste2Energy's technology didn't really work, did it?

A. No. They were waiting on a part.

Q. Okay.

A. Yes.

Q. While you were at Charles Vista it's fair to say, isn't it, that its technology was able to incinerate waste but it wasn't able to turn it into energy?

A. That was my understanding.

Q. So it could do the waste but not the energy?

A. That was my understanding.

Q. Waste2Energy filed a Form 8-K with unaudited financial statements in June 2009. Correct?

A. Early June, yes, the Maven -- the one that says Maven Media on it?

[p.200]

Q. In early June 2009. Is that correct?

A. I think so, yes.

MR. JANGHORBANI: Mr. Chan, can you pull up Division Exhibit 15? This is already in evidence, your Honor.

JUDGE FOELAK: Yes.

Q. Mr. Lorenzo, is that up on your screen? We have looked at this document earlier with Mr. Brown. You see it says "Form 8-K, Maven Media Holdings Inc., May 28, 2009." You see that?

A. Yes, I do.

Q. Maven Media was just Waste2Energy's prior name. Correct?

A. Well, Maven Media was the name of the shell that Waste2Energy did an RTO with.

Q. You mean a reverse merger?

A. Yes.

Q. And when it did a reverse merger, Maven Media changed its name to Waste2Energy Holdings Inc. Correct?

A. Correct.

Q. The merger occurred in late May 2009. Correct?

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A. That is correct.

Q. Could I ask you to turn to page 61? You see this document is signed June 3, 2009?

A. Yes, I do.

Q. So it is fair to say that Waste2Energy filed this 8-K on June 3, 2009. Correct?

A. That is correct.

Q. And you saw this 8-K in early June 2009. Correct?

A. Yes.

Q. Right around June 3rd; right?

A. Correct.

MR. JANGHORBANI: Mr. Chan, could you turn to page 63, please? Just the first half of the page, Mr. Chan? Thank you.

Q. You see it says "Waste2Energy Inc." and "Subsidiaries consolidated balance sheet"?

A. Yes, I do.

Q. You see there is a column that says "December 31, 2008, unaudited"?

A. Yes.

Q. So this is the balance sheet as of December 31, 2008?

A. Yes.

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Q. And it was unaudited. Correct?

A. Yes, that is correct.

Q. You understand by "unaudited" that meant these financials had not been signed off on by a qualified auditor. Correct?

A. Yes.

Q. And you understood then that no auditor was making any representation about these numbers. Correct?

A. I don't know if I can a hundred percent answer that correctly because there was conversations with Marcum Kliegman that the audit was looking good at the time.

Q. But these numbers weren't audited. Correct?

A. Yes.

Q. So just these numbers on this balance sheet, you understood that no auditor was making any representation about these December 31, 2008 unaudited numbers. Correct?

A. Yes, that is correct.

Q. At the time it was significant to you, wasn't it, that these financials weren't audited?

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A. Yeah.

Q. Did you say yes, sir?

A. Yes, I did.

Q. And that is because an audit gives comfort that Waste2Energy's financials are accurate. Correct?

A. Correct.

Q. In fact, without an audit there is way too much risk for investors. Correct?

A. That sounds accurate.

Q. So that is a yes?

A. Yes.

Q. I have already directed you to this but you see it says December 31, 2008. Right?

A. Mm-hmm.

Q. These numbers were six months old when you first saw them. Correct?

A. These numbers were six months old? Yes, that is correct.

Q. Now, you see "Total assets"? You see a row that says "Total assets" and then it says $13,987,764?

A. Yes.

Q. You understood that is the total

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assets being reported of Waste2Energy?

A. Yes.

Q. And then you see a couple lines up there is a line that says "Intangibles net"?

A. Yes.

Q. Next to that it says "$10,038,558"?

A. Yes.

Q. That 10 million in intangible assets that was Waste2Energy's intellectual property. Correct?

A. I believe so.

Q. That is what you understood. Correct?

A. Yes.

Q. And by far Waste2Energy's biggest asset. Correct?

A. Absolutely.

Q. Now, you had concerns at the time back in June 2009, didn't you, about whether this asset was really worth $10 million?

A. Yeah.

Q. Yeah, and that is because you thought it was a dead asset.

I am sorry. Did you say yes?

A. Yes.

[p.205]

Q. That was because you thought it was a dead asset. Correct?

A. I may have said dead but I know that it is going to be discounted. Intellectual properties are hugely discounted so -- upon liquidation. So I may have used the word dead in my testimony but an intangible asset is questionable. Put it that way.

Q. At a minimum you understood that it was illiquid. Correct?

A. Yes.

Q. You didn't believe that Waste2Energy would be able to get $10 million for this asset. Is that correct?

A. Yes, that's correct.

Q. That is a no?

A. That is a no.

Q. In fact, Waste2Energy would be lucky to get a million dollars for this asset. Correct?

A. I believe I testified to that, something like that, yes.

Q. So that is what you believed. Correct?

[p.206]

A. Correct.

Q. And you referred to this asset as a dead asset, didn't you?

A. It is going back a ways. I may have used the word dead.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 26, 2012

transcript, page 56. I will give everyone a second to catch up.

A. What page was that?

Q. Page 56?

A. Dead asset. Okay.

MR. JANGHORBANI: Starting at line 6, your Honor, and going to line 14. May I read, your Honor?

JUDGE FOELAK: Is Mr. Hantman there?

MR. HANTMAN: I am not sure where you are.

MR. JANGHORBANI: The July 6th testimony.

MR. HANTMAN: Thank you.

MR. JANGHORBANI: May I read, your Honor?

JUDGE FOELAK: Yes.

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MR. JANGHORBANI: "Question: I think what Mr. Osnato may be getting at was there is something particular about the asset that prompted you to say that?

"Answer: Yes. It was a dead asset.

"Question: What do you mean by dead asset?

"Answer: Illiquid. And upon liquidation there is no way you are going to get even close to $10 million. So if there was a liquidation you are lucky you can get a million dollars for that asset."

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes, you did.

Q. In fact, you didn't consider this $10 million to be a significant source of collateral. That's fair to say?

A. I'd say that's accurate.

Q. You didn't think it was a tangible source of collateral against debenture. Isn't that fair to say?

A. I think that's fair to say.

Q. Now, we have just looked at the

[p.208]

financials, the unaudited December 31st financials. You understood that Waste2Energy's financials were in the process of being audited. Correct?

A. Yes.

Q. And you knew that, that that process was going on in the summer of 2009. Correct?

A. Yes.

Q. You certainly understood it was going on by August 2009. Correct?

A. Yes.

Q. And Waste2Energy was having an audit done for the purpose of filing a Form 10-Q. Correct?

A. A Form 10-Q? Yes.

Q. You were aware of that by August 2009 as well. Correct?

A. Yes.

MR. JANGHORBANI: Mr. Chan, can you pull up Exhibit 30? That is in evidence already, your Honor.

Q. Mr. Lorenzo, do you have that on your screen?

A. I do.

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Q. This appears to be an e-mail from Francis Lorenzo to Craig Brown dated August 19, 2009. Is that correct?

A. That is correct.

Q. That is your e-mail address on top; right?

A. Yes.

Q. That is Florenzo@charlesvista.com. Is that correct?

A. That is correct.

Q. You see two e-mails down is an e-mail from Craig Brown dated August 19th at 4:37 p.m. Do you see that?

A. Yes, I do.

Q. You see Mr. Brown wrote, "We are continuing to work on 3/31 numbers and hope to get the audit going this week and be in a position to file audited statements for March 31st in the next two weeks."

Do you see that?

A. Yes, I do.

Q. And that is the audit we have just been discussing. Correct?

A. Yes.

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Q. So you knew the audit hadn't been completed by August 19th. Correct?

A. That is correct.

Q. And you see that Mr. Brown then writes, "We expect to be able to get a 10-Q done and filed in short order after the 3/31 numbers are filed with the SEC." You see that?

A. Yes, I do.

Q. That is the same 10-Q we were just talking about. Correct?

A. Correct.

Q. You understood Waste2Energy was preparing an audit in order to file it with the 10-Q?

A. Correct.

Q. You knew, didn't you, that Waste2Energy was late in getting its audit done?

A. Yes.

Q. That is what this e-mail is telling you; right?

A. Right.

Q. In fact, you respond to Mr. Brown's information, don't you?

A. Yes.

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Q. You write "Thanks for the update and the great work." Right?

A. That's correct.

Q. Now, at the same time the audit was going on, Waste2Energy was working on a private placement memorandum for a debenture offering. Correct?

A. That is correct.

Q. Can I ask you to turn to Division Exhibit 3? It may be easier to look at it in binder initially at least.

A. Got it.

Q. You have that in front of you, sir?

A. Yes, I do.

Q. This is the PPM. Right?

A. This is the September 9th PPM.

Q. So this is a private placement memorandum for Waste2Energy. Correct?

A. Yes, it is.

Q. And it says "Private offering memorandum" on top but private offering memorandum is just another way of saying private placement memorandum?

A. That is correct.

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Q. Okay. And you see on the second page it is dated September 9, 2009?

A. Yes.

Q. All right.

And this private placement memorandum is offering 12 percent convertible debentures. Correct?

A. Yes, correct.

Q. The maximum offering of $15 million?

A. Yes.

Q. And Charles Vista was the exclusive placement agent for this deal?

A. Yes, that.

Q. Can you keep your voice up, sir? I am sorry. I am having trouble hearing you.

A. No worries.

Q. You prepared this private placement memorandum, didn't you?

A. Yes.

Q. In fact, you communicated with Waste2Energy about drafts of this document; right?

A. Yes, I did.

MR. JANGHORBANI: Your Honor, I would

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like to offer Division 3 in evidence.

JUDGE FOELAK: Admitted.

(So received in evidence as Division Exhibit 3.)

Q. And you suggested changes to the PPM. Correct?

A. I guess so.

Q. Now, this is the PPM that was used for the same 12 percent offering that Craig Brown testified about this morning. Correct?

A. I believe so, yes.

Q. You don't have any reason to believe that is not the case?

A. That is correct.

Q. I am sorry. I sort of double-backed a little. You suggested changes to drafts of this PPM. Right?

A. Probably. I mean, I don't know if it was this one or the one beforehand, but, yes, I remember that one e-mail, a couple of changes requesting.

Q. Can I ask you to turn to Division Exhibit 17?

A. 17?

[p.214]

Q. 17.

A. Got it.

Q. You see this is an e-mail from Francis Lorenzo to David Manno copying a number of people including Craig Brown? Do you see that?

A. Yes, I see.

Q. And you sent this e-mail, didn't you, on August 26, 2009. Correct?

A. Yes, I did.

Q. And the subject line, you see it reads "CV changes edits to the PPM." Correct?

A. Yes.

Q. That is the PPM I just showed you, Exhibit 3?

A. Exhibit 3. Yes.

Q. This subject line, this means that Charles Vista is suggesting changes to a draft of the private placement memorandum. Correct?

A. Correct.

Q. And you were providing those edits?

A. Yes.

Q. And one of the changes that you were suggesting was to include the $10 million intangible asset in the private placement

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memorandum. Correct?

A. Provided it was legal to put it in there.

Q. But that is what you were suggesting, yes?

A. Yes. If it was legal, put it in.

MR. JANGHORBANI: Can I ask you to turn to page 3, Mr. Chan?

Q. Do you see at the very bottom you write "We want to mention that the company has IP and intangibles valued at $10,038,558."

A. Correct.

Q. Right? So you got that number from the June 3rd 8-K?

A. Yes, that is correct.

Q. And you were asking if Charles Vista would include that number in the private placement memorandum. Correct?

A. Well, if the lawyers and the auditors approved it, you know, wouldn't we'd want them to –

Q. You wanted to mention it. Correct?

A. Provided that it was allowed to be mentioned.

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Q. You wanted to include it in the private placement memorandum because you thought it was a material number; correct?

A. Based on conversations with the company and with Peter Bohan it was a material number.

Q. You thought it was material. Correct?

A. Not on a liquidation value basis.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 26, 2012 testimony, page 83; lines 14 to 17.

May I read, your Honor?

JUDGE FOELAK: Mr. Hantman?

MR. HANTMAN: I am okay.

JUDGE FOELAK: Go ahead.

MR. JANGHORBANI: "Question: So I take it that you were asking Waste2Energy if they could put that number in the private placement memo.

"Answer: Yes, I thought that was material."

Q. Did I read that correctly, Mr. Lorenzo?

A. On page 83?

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Q. 82.

JUDGE FOELAK: Oh.

THE WITNESS: I thought you said 83.

MR. JANGHORBANI: I may have misspoke. I apologize.

THE WITNESS: I am sorry. What was it, sir?

MR. JANGHORBANI: Let me try again. I apologize for that.

Q. Page 82, line 14 to 17: "Question: And so I take it that you were asking Waste2Energy if they could put that number in the private placement memo.

"Answer: Yes. I thought that was material."

Did I read that correctly, sir?

A. Yes, you did.

MR. JANGHORBANI: Your Honor, I move Division Exhibit 17 into evidence.

JUDGE FOELAK: Exhibit 17 is admitted.

(So received in evidence as Division Exhibit 17.)

Q. Mr. Lorenzo, you see on Exhibit 17, which is up on your screen, you see in the

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parentheses it says "Valued on the company's audited financial statement"?

A. Yes, I see that.

Q. The June 3rd 8-K wasn't audited. We just talked about that; right?

A. Correct.

Q. And you understood that; correct?

A. If I continue to read my testimony on page 83 when we address that it says "Is it clear you had made a mistake" and --

Q. Could you, please, put your testimony aside, sir. I am asking you a question.

A. Okay.

Q. No one ever told you that the June 3rd 8-K had ever been audited. Correct?

A. That is correct.

Q. You understood it wasn't audited. Correct?

A. Yes.

Q. Now, this request here, this request to mention the 10 million, Waste2Energy never responded to that request. Correct?

A. I don't remember that they did.

Q. You don't recall ever receiving a

[p.219]

response. Correct?

A. No, I don't recall receiving a response.

Q. And you sent this e-mail on August 26, 2009. Now, by a week later, you really weren't sure what this intangible asset was worth; isn't that fair to say?

A. In a week later – what was the date you mentioned?

Q. Well, you sent Exhibit 17 on August 26th. By a week after that, you weren't sure what the intangible asset was worth. Isn't that true?

A. Yes. That is true. Nobody informed me on what it was worth based on the audit.

Q. Can I ask you to turn to Exhibit 18. Do you see that, Mr. Lorenzo?

A. Yes.

Q. That is an e-mail from you to Peter Bohan and Craig Brown. Correct?

A. Yes.

Q. On September 1, 2009. Correct?

A. Yes.

MR. JANGHORBANI: Your Honor, I move

[p.220]

Exhibit 18 into evidence.

JUDGE FOELAK: Exhibit 18 is admitted.

(So received in evidence as Division Exhibit 18.)

Q. You sent this about a week after Exhibit 17. Right?

A. Okay.

Q. Is that a yes?

A. Yes.

Q. You see the subject is "CV changes."

A. Yes.

Q. That means Charles Vista's changes to the PPM?

A. Correct.

Q. That is the one we have been talking about in Exhibit 3?

A. Yes.

Q. Now, you see on point 4, you see it says "IP intangibles as an asset valued at," dollar symbol – then there is a blank -- on the last audit date page 32."

You see that?

A. Yes, I do.

Q. You were referring to including a

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reference to the value of the intangible on page 32 of the PPM. Correct?

A. Correct.

Q. But this time you left the dollar figure blank. Right?

A. Correct.

Q. You didn't write 10 million. Correct?

A. No.

Q. And that is because you weren't sure what this was worth anymore. Right?

A. Correct.

Q. And you didn't get a response to point 4 of your e-mail, did you?

A. I don't remember getting a response.

Q. You don't recall ever getting a response. Correct?

A. Correct.

Q. And you never spoke with anyone at Waste2Energy about it. Correct?

A. No. Therein lies the problem. Yes. Correct.

Q. You don't recall having a conversation?

A. No.

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Q. In fact, you don't recall ever having a conversation with anyone at Waste2Energy about the $10 million asset. Correct?

A. Ever? Can you repeat the question, sir?

Q. I will withdraw it.

Now, Waste2Energy did not, in fact, include any reference to the $10 million number in the private placement memorandum, did it?

A. I don't recall.

Q. In fact, Waste2Energy didn't give any dollar value for its IP asset in the final private placement memorandum, did it?

A. That is correct I believe.

Q. That's correct; right?

A. I believe that is correct.

MR. JANGHORBANI: Mr. Chan, can you pull up Division Exhibit 3?

Q. Now, we have talked about this. This is the debenture private placement memorandum. And you reviewed this PPM when the final version came out; right?

A. Yes. I guess depending on how you define "review." I mean -- okay. Yeah, I

[p.223]

reviewed it.

Q. Yes?

A. Yes.

Q. Now –

MR. JANGHORBANI: Mr. Chan, can I ask you to turn to page 31?

Q. Now, you see there is a section here on page 31 of the PPM entitled "Intellectual property"?

A. Yes, I do.

Q. You see that?

A. Yes.

Q. And you looked at this section. Correct?

A. Yes.

Q. And it is fair to say, isn't it, that there is no number given for the value of the IP asset here. Isn't that correct?

A. That is correct.

Q. And, in fact, this was the section you were asking, in your September 1st e-mail, you were asking Charles Vista to include the 10 million number in this section. Correct?

A. Well, based on the fact that it was

[p.224]

really there, yeah.

Q. Yes, you were asking them to include it in this section, page 31, intellectual property. Correct?

A. If they can legally put it in, yes.

Q. My question is only, was this the section -- you see this is page 31?

A. Well, I didn't specify what section. Maybe financial -- you know, we are going back a while.

MR. JANGHORBANI: I will withdraw my question.

Q. Now, just a few week after this, after September 9th, Waste2Energy's audited financials came out; correct?

A. Yes.

Q. They came out in two public files; right?

A. Right.

Q. A 10-Q. Correct?

A. Correct.

Q. And an amended Form 8-K. Correct?

A. Correct.

Q. And you received both those filings

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from your secretary. Correct?

A. I believe I did.

Q. And those financial statements showed that Waste2Energy had completely written off the $10 million asset. Correct?

A. Yes.

MR. JANGHORBANI: Mr. Chan, can you pull up Exhibit 16? This is already in evidence, your Honor.

Q. Do you see, Mr. Lorenzo, this is an amended Form 8-K of Waste2Energy?

A. Yes, I do.

Q. And if you turn to page 66, do you see it is signed by Craig Brown on October 1, 2009. Correct?

A. Yes.

Q. Mr. Brown, you understood, was the CFO at the time?

A. Yes, correct.

Q. This is the Form 8-K, the amended Form 8-K that you were just talking about?

A. Yes.

Q. That was sent to you by your secretary?

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A. Yes.

Q. Now, if you could turn to page 69, please? You see it says "Waste2Energy Inc. and subsidiaries consolidated balance sheet"?

A. Yes.

Q. You see there is a column that says "March 31, 2009"?

A. Correct.

Q. And you see there is a line that says "Total assets." Correct?

A. Correct.

Q. Next to that it says $370,552?

A. Correct.

Q. And that number was audited. Correct?

A. Correct.

Q. So it is fair to say that as of March 31, 2009, Waste2Energy's audited financial statements showed assets of under $400,000.

A. That is correct.

Q. You see the line for intangible assets gone; right?

A. That is gone, yes.

Q. You also see there is no line for goodwill?

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A. That is gone, too.

Q. If I could ask you to turn to page 46? You see there is a heading here that says "Asset impairment and bankruptcy of Enerwaste Europe subsidiary"?

A. Yes.

Q. You see that, sir?

A. Yes.

MR. JANGHORBANI: Mr. Chan, if you can highlight the last sentence of the paragraph starting, "As a result"?

Q. You see it says "As a result, an impairment charge in the amount of 10,538,029 was required to write off the value of the technology?"

You see that, sir?

A. Yes, I do.

Q. So it is fair to say Waste2Energy wrote off the $10 million asset?

A. Yes.

Q. And it was announcing it in this amended 8-K?

A. For the first time, yes.

Q. If you look at the last sentence of

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the next paragraph you see it says, "As a result of the above, management determined that goodwill was impaired and an impairment charge in the amount of $496,594 was recorded to write off the value of the goodwill."

Do you see that?

A. Yes, I do.

Q. So it is fair to say the company was also writing off about $500,000 in goodwill. Correct?

A. That is correct.

Q. If you add the two numbers together they are just about 11 million?

A. Give or take, yes.

Q. And I think you already said that your secretary e-mailed you this amended 8-K on October 1st. Right?

A. Yes, that is correct.

MR. JANGHORBANI: Can you, Mr. Chan, pull up Division 32?

Q. Do you have that in front of you, Mr. Lorenzo?

A. Yes.

Q. At the top it says from Sera Holmes to

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Francis Lorenzo and the date is October 1, 2009 at 4:55 p.m.?

A. Correct.

Q. So you received this e-mail. Correct?

A. Yes, I did.

Q. Sera Holmes was your assistant at the time?

A. She was the firm's assistant but I paid her. She worked for Charles Vista but I paid her.

Q. She had been with you since you were at Mercer. Correct?

A. Correct.

Q. She was your executive assistant. Correct?

A. Not at Charles Vista, though.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 26, 2012 transcript, this time at page 24.

THE WITNESS: What date was that?

MR. JANGHORBANI: The July 26, 2012 testimony.

Page 24, your Honor, starting at line 5.

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May I read, your Honor?

JUDGE FOELAK: Yes.

MR. JANGHORBANI: "Question: Who is Sera Holmes?

"Answer: Sera Holmes has been with me since Mercer. She is my executive assistant."

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes, you did.

Q. You can set that binder aside, sir.

I will move the admission of Division Exhibit 32.

JUDGE FOELAK: Exhibit 32 is admitted.

(So received in evidence as Division Exhibit 32.)

Q. You see there is a subject line here, sir?

A. Yes.

Q. It says "FW alert for Waste2Energy Holdings Inc." Then in block parentheses, "WTEZE." Then it says "Form 8-K/A."

You see that?

A. Yes, I do.

Q. Ms. Holmes is forwarding you a link to

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the amended 8-K?

A. Yes.

Q. That is the amended 8-K we just looked at; right?

A. Correct.

Q. That is Division 16. Correct?

A. Yes.

Q. You read that 8-K on October 1st, didn't you?

A. Probably not as closely as I should have, but yes.

Q. You did read it on October 1st. Correct?

A. Yes.

Q. In fact, you felt you had an obligation, didn't you, as the director of investment banking to review the amended 8-K?

A. Well, I reviewed the documents but I was -- for a material change nothing was brought to my attention prior --

Q. That is not my question, sir. You reviewed the 8-K because you felt you had an obligation –

A. That's correct.

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Q. – in your role as director of investment banking to review the Form 8-K. Correct?

A. Yes, that's correct.

Q. Earlier you testified that part of your job was to look at Waste2Energy's balance sheet. Correct?

A. Correct.

Q. So the write-down is announced right here on the balance sheet of this 8-K. Correct?

A. That's correct.

Q. And you read this 8-K, you just testified to that. Is that correct?

A. That is correct.

Q. So you knew on October 1st that the assets of the company were less than $400,000. Isn't that true?

A. I missed it.

Q. Isn't it the case that – withdrawn.

The reason you felt you had an obligation to review the 8-K was because an 8-K filed with the SEC is a material document. Isn't that true?

A. Yes, it is.

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Q. And in fact, it was so material that you forwarded this 8-K to all of Charles Vista's brokers. Didn't you?

A. Yes, I did.

Q. You did that almost immediately after getting it from Sera Holmes. Correct?

A. Probably, yes.

MR. JANGHORBANI: Mr. Chan, if I can ask you to turn to page 3?

Q. Now, you see there is an e-mail from you, correct, at 4:59 p.m., October 1st, to all brokers. Correct?

A. Correct.

Q. And it says "Subject, Waste2Energy Holdings files 8-K/A." Correct?

A. Correct.

Q. So you are forwarding the October 1st amended 8-K to all of the brokers at Charles Vista; right?

A. Yes.

Q. And you are sending it just four minutes after Sera Holmes sent it to you. Correct?

A. Correct.

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Q. And that is because this was an incredibly important document?

A. Well, it wasn't too important for them to tell me beforehand.

Q. But you thought it was an important document?

A. Yes, I thought it was important. Yes.

Q. Now, on October 1, 2009, Waste2Energy also issued a 10-Q you say. Correct?

A. I don't know if it was October 1st but it was close.

Q. It was around October 1st?

A. Give or take, yes.

Q. Why don't we just take a look at it.

Can you pull up Division 22? This is already in evidence, your Honor?

Q. Do you have the cover page of the 10-Q in front of you, sir?

A. Absolutely.

Q. You see it says, "Form 10-Q for quarterly period ended June 30, 2009" and the name of the company, Waste2Energy Holdings Inc. You see that?

A. Right.

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Q. It is fair to say this is a 10-Q of Waste2Energy. Correct?

A. Yes.

MR. JANGHORBANI: If I can ask you, Mr. Chan, to turn to the last page, page 45?

Q. Do you see it is signed by Peter Bohan and Craig Brown?

A. Correct.

Q. And Mr. Bohan was the chief executive officer of Waste2Energy?

A. Yes.

Q. And it was dated October 1, 2009. Correct?

A. Correct.

Q. So it is fair to say that Waste2Energy issued this 10-Q on October 1st. Correct?

A. Correct.

Q. Same day they issued the amended 8-K?

A. Correct.

MR. JANGHORBANI: Page 4, Mr. Chan?

Q. You see there is a condensed consolidated balance sheet for June 30, 2009 and March 31, 2009. You see that?

A. Correct.

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Q. You see the March 31st column?

A. Yes.

Q. Those were the same audited numbers we just looked at in the amended 8-K. Correct?

A. Correct.

Q. Is that a yes?

A. Yes.

Q. You see again total assets of under $400,000. Right?

A. Correct.

Q. Then you also see there is a column for June 30, 2009, "Unaudited." Do you see that?

A. Yes.

Q. Those numbers are not audited. Correct?

A. Correct.

Q. And you see total assets there are $660,408?

A. Correct.

Q. But there is still no line for intangibles. Right?

A. That is correct.

Q. And there is still no line for

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goodwill. Right?

A. Correct.

Q. Now, this document, this Form 10-Q and the amended 8-K we just looked at, those were filed on October 1, 2009 and the numbers here are as of March

2009 and June 2009. But you didn't have any reason to think, did you, that these asset numbers had changed significantly between March and October 2009, did you?

A. I am sorry.

Q. Let me withdraw that. That was badly worded. This 10-Q is speaking as of June 30, 2009. Correct?

A. Yes.

Q. But it was filed on October 1, 2009. Correct?

A. Correct.

Q. You didn't have any reason to think, did you, that the numbers -- the numbers given here had changed significantly between June 2009 and October 1st. Correct?

A. Prior to October 1st?

Q. As of October 1st.

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A. I am sorry. I am a little confused on the question. Can you give it one more try?

Q. Well, let me take another run at this. These numbers are here, the assets we are looking at, the balance sheet, the first column, those numbers are as of June; right?

A. As of June released October 1st.

Q. Right. But as of June. Correct?

A. Yes.

Q. The company -- you understood the company was saying, hey, we have about $660,000 in total assets on June 30, 2009. Correct?

A. But I became aware of that October 1st.

Q. That is not what I am asking you. You didn't have any reason to believe, did you, that this number, this total asset number had changed significantly on October 1st from what is listed here, did you?

A. Prior to October 1st I thought they had $10 million in assets.

MR. JANGHORBANI: Your Honor, I would like to read another admission. This is from the July 26, 2012 testimony. Page 120, your

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Honor.

THE WITNESS: What page?

MR. JANGHORBANI: Page 120, starting at line 19, your Honor. May I read, your Honor?

JUDGE FOELAK: Okay. It looks like he's there.

MR. JANGHORBANI: "Question: That is not what I am asking you. Let's start again. You see, but as we are looking at this it says as of March 31, 2009 the total assets are $370,552. Do you see that?

"Answer: Yes.

"Question: But this was issued on October 1, 2009. Are you following me?

"Answer: Yes.

"Question: On October 1, 2009, did you have any reason to believe that the assets as of October 1, 2009 were significantly different from the $370,000 figure that is here?

"Answer: I would not, no. I wouldn't be led to believe that it would have been different."

Q. Did I read that correctly, Mr. Lorenzo?

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A. I apologize but while you were reading I thought you said 118 so I was trying to catch up. It is 119. Correct? I am sorry.

Q. It is 120, sir.

A. What line?

Q. 19. Are you with me? It starts with "That is not what I am asking you."

MR. JANGHORBANI: May I read it again, your Honor?

JUDGE FOELAK: Certainly.

MR. JANGHORBANI: "Question: That is not what I am asking you. Let's start again. You see that as we are looking at this it says as of March 31, 2009, the total assets of $370,552. Do you see that?

"Answer: Yes.

"Question: But this was issued on October 1, 2009. Are you following me?

"Answer: Yes.

"Question: On October 1, 2009, did you have any reason to believe that the assets as of October 1, 2009 were significantly different from the $370,000 figure that is here?

"Answer: I would not, no. I wouldn't

[p.241]

be led to believe that it would have been different."

Q. Did I read that correctly?

A. Yes, you did.

Q. Thank you. You can set that binder aside, sir.

Now, you received this 10-Q, Exhibit 22, you received this on October 1st. Right?

A. Correct.

Q. And you read it; right?

A. Yeah, I am sure I did.

Q. And that's because once again you felt that in your role as director of investment banking you had an obligation to review your client's 10-Q. Correct?

A. That is correct.

Q. In fact, once again you sent this 10-Q to all of Charles Vista's brokers; right?

A. Yes, I did.

Q. And that is because it was an important document; correct?

A. That is correct.

Q. It was material. Correct?

[p.242]

A. Correct.

MR. JANGHORBANI: Mr. Chan, can you go to Division 21, please.

Q. Do you have that on your screen, Mr. Lorenzo?

A. Yes, I do.

Q. Mr. Lorenzo, if you could just let me finish my question? I have trouble with it as well but just to make the Court reporter's life easier?

A. No worries.

Q. You see this is an e-mail from you to all brokers. Correct?

A. Correct.

Q. It says, "Subject Waste2Energy Holdings Inc. SEC filings, Form 10-Q and Form 8-K/A." You see that?

A. That is correct.

Q. So you sent this e-mail. Correct?

A. That is correct.

MR. JANGHORBANI: I move the admission of Division 21, your Honor.

JUDGE FOELAK: Exhibit 21 an admitted.

(So received in evidence

[p.243]

as Division Exhibit 21.)

Q. You wrote "The following links are the recent W2E filings with the SEC." Correct?

A. Correct.

Q. That meant Waste2Energy. Correct?

A. Correct.

Q. Then there is two links. Right?

A. Yes.

Q. One is for a Form 10-Q, correct, and one is for a form amended 8-K. Correct?

A. That is correct.

Q. So you are forwarding links to the two filings we just looked at to all Charles Vista's brokers. Correct?

A. That is right.

Q. Now, these filings -- we just looked at them. These are the ones that disclose that waste to energy had written off all its intangible assets. Right?

A. Correct.

Q. And its goodwill. Correct?

A. Correct.

Q. By far the lion's share of its assets. Correct?

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A. That is correct.

Q. That announcement was a big deal to you; right?

A. I am surprised I didn't hear about it sooner. Yes, it is a big deal.

Q. It was a big kick in the stomach, wasn't it?

A. Yeah.

Q. Is that a yes?

A. Yes.

Q. And that is because it counted for almost all of Waste2Energy's assets on its balance sheet. Right?

A. Correct.

Q. Now, these filings, these weren't the last time you were told about the write-off, were they?

A. The last time I was told? These weren't the last time I was told?

Q. These October 1st filings, these were not the last time you were told about the write-off; isn't that fair to say?

A. I think that is accurate to say.

Q. In fact, Craig Brown told you again

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about the write-off just five days after this filings came out; right?

A. I received an e-mail from Craig Brown forwarded from Andre. But as far as discussing the implications of this asset, no.

Q. So you received an e-mail from Craig Brown telling you about the write-off on October 5th. Correct?

A. Yeah, the one from Andre. Right?

Q. I am just asking –

A. If I am thinking it is the right – if I am thinking of the right one, yes.

Q. And you read that e-mail. Correct?

A. I don't remember reading it. I mean I may have read it. Probably skimmed it.

MR. JANGHORBANI: Mr. Chan, can you pull up Division 19?

Q. This is an e-mail from Craig Brown to a number of people, including yourself. Correct?

A. Correct.

Q. It is dated October 5, 2009. Correct?

A. Correct.

Q. The subject is "Re: W2E financial

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filings." Correct?

A. Correct.

Q. You read this e-mail at the time you received it. Correct?

A. You know, I don't know what I testified to. I may have skimmed it but, you know – I may – I probably

skimmed it but there was no -- there was no follow-up, there was nothing significant about this e-mail at the time.

Q. There was nothing significant about this e-mail?

A. It was --

Q. That is not the question I asked --

MR. HANTMAN: Let him finish.

JUDGE FOELAK: Let him finish.

A. I was counting based on the agreements with Waste2Energy that any significant development would be voluntarily disclosed and not put into an e-mail.

Q. Right, right.

MR. HANTMAN: Your Honor, I object to the snide remarks, "Right, right." Counsel may not like the answer but doesn't need to be

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demeaning to the witness.

JUDGE FOELAK: The "right, right," is withdrawn.

A. With all due respect, the company's debentures -- Waste2Energy began working on this write-down in July.

MR. JANGHORBANI: Your Honor, we are far afield of the question I asked. All I asked is whether he received and read the e-mail. I have a right to an answer to my question.

THE WITNESS: This was an unintentional miss. There wasn't a preconceived, premeditated -- this was a miss because these events were not brought to my attention. And something this significant shouldn't have been just put into an e-mail and hid into a filing.

There needs to be a meeting about this, have a contingency plan. The default provisions needed to be changed, the PPM's needed to be amended. There needed to be a plan if this asset was -- was reduced, not just thrown into an e-mail in the last minute.

The company signed an investment

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banking agreement saying that they would voluntarily disclose material financial information when they received and became aware of that information.

They became aware of this in July. I am only hearing about it now. And then I --

MR. JANGHORBANI: Your Honor --

MR. HANTMAN: Let him finish before the objection.

MR. JANGHORBANI: Mr. Lorenzo will have an opportunity to testify, will have an opportunity to have a direct examination. I asked a very straightforward question and I think I'm entitled to a response.

JUDGE FOELAK: The idea is he is asking you a question that you may wish to expound upon but your attorney will bring out everything you want to say.

THE WITNESS: I apologize to the Court. I am sorry, sir.

JUDGE FOELAK: No problem.

MR. JANGHORBANI: Let me start again.

Q. It is obvious you got this e-mail. Correct?

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A. Yes.

Q. And you reviewed it; correct?

A. Reviewed it, yes.

Q. And you remember reviewing it. Correct?

A. If I remembered reviewing this I would have never sent out those two other e-mails, period. I don't care what you say.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 2012 transcript.

MR. HANTMAN: Your Honor --

MR. JANGHORBANI: May I finish, please? This time it is page 138, line 5, starting line 5.

THE WITNESS: What was the date, sir?

MR. JANGHORBANI: The July 26, 2012 transcript, page 138, beginning at line 5.

JUDGE FOELAK: Wait. Mr. Hantman?

MR. HANTMAN: I want to inject so the record is clear, these transcripts, this is the fourth transcript or hearing of this witness and this is the first time that he is being deposed or he is at this hearing without the opportunity

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to have counsel with him.

MR. KAUFMAN: He had the opportunity –

MR. HANTMAN: Your Honor, he didn't have counsel there. Three other times they tried to get all this information they couldn't do it. The time he doesn't have counsel with him, then they harp on all these different things. I just want to put it in the right perspective.

JUDGE FOELAK: Context. Okay.

MR. HANTMAN: It doesn't call for any comment. This is the fact of the case.

MR. JANGHORBANI: This is argument and Mr. Hantman will have opportunity to make argument.

JUDGE FOELAK: Fine. Let's move forward.

MR. JANGHORBANI: May I read, your Honor?

MR. HANTMAN: Well, I am not satisfied with that because it is not argument. It is undisputed –

JUDGE FOELAK: No, no. Are you at the

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place where he wants to start reading?

MR. HANTMAN: Sorry, your Honor.

THE WITNESS: What line?

MR. JANGHORBANI: Page 138, starting line 5.

THE WITNESS: I am ready.

JUDGE FOELAK: Go ahead.

MR. JANGHORBANI: "Question: Do you remember seeing this information, getting this e-mail and learning about this on October 5, 2009?

"Answer: It's obvious I got the e-mail. I remember reviewing it. Okay. Yes. I do remember reviewing this."

Q. Did I read that accurately?

A. Yes, you did.

Q. Thank you.

Now, Mr. Brown tells you right here on page 1 about the write-off. Correct?

A. Yes.

Q. And that is point 2. You see that?

A. Yes, I do.

Q. And he writes, "Write-off of all of our intangible assets that were tied to our

[p.252]

purchase of Enerwaste in March 31st period of about $11 million." You see that?

A. Yep.

Q. So you understand Mr. Brown is referring to the same intangible assets we have been talking about. Right?

A. Correct.

Q. You understood that at the time. Correct?

A. At the time of what?

MR. JANGHORBANI: Withdrawn.

Q. So it is fair to say, isn't it, sir, that on October 5, 2005, you were aware that the $10 million asset had been written off by Waste2Energy. Correct?

A. Okay. I will agree to that. That's correct.

Q. That is a fair statement?

A. Yes.

Q. And it is also fair to say, isn't it, sir, that nobody ever gave you any inaccurate information about the $10 million intellectual property asset?

A. That is not fair. That is not an

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accurate statement.

Q. You can't remember anyone giving any inaccurate information, can you?

A. That – is omitting material financial statements, is that inaccurate information?

Q. I will try the question again, sir.

You can't remember anyone ever giving you any inaccurate information about the $10 million asset. Isn't that correct?

A. That is not correct.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the same transcript, the July 26, 2012 transcript, starting from line 6, your Honor.

JUDGE FOELAK: Of what page?

MR. JANGHORBANI: Page 53, line...

May I read, your Honor.

JUDGE FOELAK: Go ahead.

MR. JANGHORBANI: "Question: As you sit here today, you don't remember anybody gave you inaccurate information about the $10 million intellectual property asset?

"Answer: I can't remember, no."

Q. Did I read that correctly, sir?

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A. Yes, you read it correctly.

Q. Now, Mr. Brown wrote to you on October 5th, just a couple weeks after this e-mail --

You sent an e-mail to two prospective investors saying the $10 million asset still existed. Isn't that correct?

A. That's correct.

JUDGE FOELAK: We'll take 15 minutes.

(Recess.)

JUDGE FOELAK: Out of curiosity, how much longer do you expect with the witness?

MR. JANGHORBANI: It all depends on the answers I get, but in my outline I am over halfway through.

JUDGE FOELAK: Perhaps Mr. Hantman will defer his examination until tomorrow.

MR. HANTMAN: I am pretty sure.

MR. JANGHORBANI: I would love to get through it all today, your Honor.

JUDGE FOELAK: But there is no point in going overboard.

MR. HANTMAN: If counsel wants to put in the date and the page and line number we'll

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stipulate that that can be introduced into the record. We'll have an opportunity to put in at some point whatever pages or lines we want so we can avoid all this testimony.

MR. JANGHORBANI: No, your Honor. We can't stipulate to that for a couple of reasons. One, this is part of our presentation. I think it is important to put in statements that directly contradict what the witness is saying now.

But, two, these are offered as admissions against a party opponent. Mr. Hantman cannot offer admissions of statements of his own client of his own prior testimony because they are not offered against a party opponent.

JUDGE FOELAK: Sometimes the parties mutually agree on -- well, okay.

MR. HANTMAN: I know counsel likes the dramatic of confronting the witness with the statements. I can appreciate that. I am suggesting there may be other parts of the testimony which would elaborate on --

JUDGE FOELAK: Counter-designate.

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Yes.

MR. HANTMAN: Or give some realistic context to the points being made. This is more like argument.

MR. JANGHORBANI: First of all, it is not argument.

JUDGE FOELAK: Okay, okay. But --

MR. JANGHORBANI: Be that as it may, maybe counsel can talk about this after the Court closes today.

JUDGE FOELAK: Would you have in mind 5 or 5:30?

MR. JANGHORBANI: I will take direction from your Honor.

JUDGE FOELAK: Well, why don't we start now.

MR. JANGHORBANI: Your Honor, can I have the last question and answer read back just to reorient us?

(Record read as follows: "Now, Mr. Brown wrote to you on October 5th, just a couple weeks after this e-mail -- you sent an e-mail to two prospective investors saying the $10 million asset still existed.

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Isn't that correct?

"Answer: That's correct.")

CONTINUED DIRECT EXAMINATION

BY MR. JANGHORBANI:

Q. And in fact, you told them the $10 million was one of the things that protected their investment in Waste2Energy debentures. Correct?

A. I told them?

Q. In your e-mail. Correct?

A. I cut and paste an e-mail and sent it to them. Yeah.

MR. JANGHORBANI: Mr. Chan, can you open Division 34? This is in evidence, your Honor.

Q. You have that on your screen, sir?

A. Yes.

Q. You see this is an e-mail from you to W.S. Rothe at Sbcglobal.net?

A. Correct.

Q. You sent this on October 14, 2009. Correct?

A. Yes.

Q. W.S. Rothe is William Rothe. Correct?

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A. Yes.

Q. You see that is your signature block on the bottom. Correct?

A. Yes.

Q. It says "Truly, Francis V. Lorenzo, vice president investment banking." Correct?

A. Yes.

Q. You see if you turn to the first page of the e-mail -- I did this out of order.

There is another e-mail from you to Vishal Goolcharan also October 14, 2009. Correct?

A. Correct.

Q. You also sent that e-mail. Correct?

A. Correct.

Q. And you also have your signature block on that. Correct?

A. Yes, I do.

Q. Now, you write in the subject line "W2E debenture deal points." You see that?

A. Yes, I do.

Q. So we are talking about the $15 million debenture offering, correct --

A. Correct.

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Q. -- that was going on at the time. Right?

A. Correct.

Q. And we have looked at the private placement memoranda for that document earlier today. You recall that?

A. Yes, I do.

Q. I just turn you back to that -- before I do that, the debentures were highly speculative. Right?

A. Yes, they were.

Q. They involved a high degree of risk. Correct?

A. Correct.

Q. And this e-mail -- these two e-mails here, Exhibit 34, these e-mails contain material information about the debenture offering. Correct?

A. Correct.

Q. In fact, when you wrote "W2E debenture deal points --" well, withdrawn.

Now, you sent this e-mail, didn't you, to summarize several key points of the Waste2Energy Holdings debenture offering.

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Right.

A. Mistakenly so, that is correct.

Q. You weren't summarizing key points, sir?

A. Well, I made a mistake. Yes. I sent out inaccurate information in an e-mail.

Q. Right.

A. Correct.

Q. Mr. Goolcharan, he invested $15,000, right, in debentures?

A. I found that out through you guys.

Q. You heard Mr. Brown testify to that earlier?

A. That's correct.

Q. You didn't discuss either of these deal point e-mails with Gregg Lorenzo, did you?

A. I didn't discuss either of these deal point e-mails? You mean the actual e-mail?

Q. You didn't discuss the deal point e-mails with Gregg Lorenzo, did you?

A. No. I got the e-mail addresses from him. Of course I discussed it with him.

Q. Well, you didn't discuss the subject matter of either of these e-mails with

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Mr. Mr. Lorenzo, did you?

A. Me, Mike and Gregg -- this was authored by me, Mike and Gregg.

Q. So you, Mr. Lorenzo and I assume you mean Mr. Molinaro, you guys authored this e-mail?

A. If memory serves me -- I think I authored it and then it was approved by Gregg and Mike.

Q. All right.

A. But you are going back aways and it was confusing.

Q. So you authored it and you believe that it was approved by Gregg Lorenzo and Mike Molinaro. Is that your testimony?

A. I don't really recall --

Q. Withdrawn.

A. -- exactly.

Q. But you didn't discuss the subject matter of these e-mails with Gregg Lorenzo, did you?

A. I was asked to send these e-mails out by Gregg Lorenzo to two of his clients and unfortunately I did.

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MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 26, 2012 transcript, page 144.

THE WITNESS: 144?

MR. JANGHORBANI: 144, starting line 1.

May I read, your Honor?

JUDGE FOELAK: Are you there?

MR. HANTMAN: Sorry. What page?

MR. JANGHORBANI: 144.

MR. JANGHORBANI: Line 1.

"Question: Just going back to the October 14, 2009, e-mails that you sent, Exhibit 115, did you discuss either of the e-mails or the subject matter of the e-mails at all with Gregg Lorenzo?

"Answer: Not that I recall.

"Question: Do you have any reason to believe that you did discuss it?

"Answer: No. If this is the guy I think it is, they kept me away from that whole thing."

Did I read that correctly, sir?

A. Yeah.

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Q. Now, this e-mail, Division 34 – it is really two e-mails but we are looking at the body of the first one now. You see about midway down it says there are three layers of protection?

A. Correct.

Q. Okay. You see the first one says the company has over 10 million in confirmed assets?

A. Correct.

Q. You are referring to the intangible asset we talked about earlier?

A. Yes.

Q. So you are saying that investors were protected from loss because Waste2Energy had millions in intangible assets. Correct?

A. That is what I said, yes.

Q. Millions in assets. Correct?

A. Correct.

Q. Now, your statement that Waste2Energy had over 10 million in confirmed assets, that wasn't accurate on October 14th, was it?

A. Nope. No, it wasn't.

Q. You knew that statement was inaccurate when you sent this e-mail, didn't you?

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A. No. I can't say that a hundred percent.

Q. Well, you knew it was misleading at the time, didn't you?

A. You know, I am sure future -- when Robert -- I just made a mistake and sent it. I cut and pasted and sent it. I made a mistake.

Q. Well, that is not true, is it? Didn't you know this e-mail was misleading at the time that you sent it?

A. I am going to stick by the fact that I made a mistake.

Q. All right.

A. I didn't consciously intend to -- to mislead anybody. I just -- I have never done it before and I just don't know why I would do it now.

Q. Sir, you can't sit here now, can you, and say that you did not know that this e-mail was false when you sent it, can you?

A. I can't say I consciously sent out an e-mail with bad information with the intent to mislead anybody. I can't say I consciously did that. I may have made a mistake and wasn't

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thinking, but consciously try to send bad information to somebody? I cannot sit here and say that I did that under oath with the intent --

MR. JANGHORBANI: Your Honor --

THE WITNESS: -- with the intent of myths leading somebody. I cannot say that.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 26, 2012 transcript. It starts on page 140, if Mr. Hantman is with us.

MR. HANTMAN: I am with you.

MR. JANGHORBANI: 140.

THE WITNESS: Line?

MR. JANGHORBANI: Starts line 24 and goes over on to the next page.

May I read, your Honor?

JUDGE FOELAK: Yes.

MR. JANGHORBANI: "Question: And this e-mail, in the body of it, it has three layers of protection. Do you see that?

"Answer: Yes, I do.

"Question: You have already testified that at least the first two -- I think actually

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you testified the first two are inaccurate and the third can be interpreted as misleading. Is that correct?

"Answer: It depends on how you interpret it, the third. Okay.

"Question: My question is, did you know that those statements were inaccurate and misleading?

"Answer: Yes.

"Question: You knew at the time?

"Answer: At the time? I can't sit here and say that I didn't know."

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes, you did.

Q. And that was because -- withdrawn.

You see you also say this first layer, this first purported layer of protection, you say the $10 million assets are confirmed. Right?

A. Yes.

Q. That was never true, was it?

A. No.

Q. That is because you took this number

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from an unaudited 8-K. Correct?

A. Yes, I believe that is correct.

Q. That number had never been confirmed by any auditor. Correct?

A. Correct.

Q. In fact we looked at documents earlier today, didn't we, showing that you asked Waste2Energy in August and September to confirm that number, didn't you?

A. Yes, I did.

Q. The company never confirmed it, did it?

A. No.

Q. Even before you received the audited financials you understood, didn't you, that the $10 million asset did not provide any protection to debenture holders. Isn't that right?

A. Sorry. What was that? Can you say that again?

MR. JANGHORBANI: Your Honor, may I have the question read back?

(Record read.)

A. Any protection?

Q. Yes.

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A. Any? Like zero protection?

Q. You understood it didn't provide any protection to a debenture investor, didn't you?

A. Not $10 million of protection, but there was something there.

Q. Well, you testified earlier you thought it was a dead asset. You remember testifying that way?

A. I believe I said you would get 10 percent of the value if you are lucky.

Q. I think you actually testified that the company would be lucky to get a million dollars for it? Isn't that true?

A. That's correct.

Q. Isn't it also true you told Gregg Lorenzo in August 2009 that Waste2Energy would be lucky to get a million dollars for those assets?

A. Sounds like something I would say to him, yes.

Q. You said that?

A. Yes.

Q. In fact you told Gregg Lorenzo all the time from March or April 2009 all the way up to

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October 2009 not to sell the debentures as being collateralized with this asset. Correct?

A. Makes it seem like this is a mistake, don't it?

Yes.

Q. And that is because you knew that this $10 million asset provided no protection. Correct?

A. That is correct.

Q. And you understood, didn't you, that if there was a default on a debenture, clients would not be able to recoup their money based on a liquidation of this asset. Correct?

A. Recoup all of their money? Any of their money?

I would say your statement is accurate.

Q. Now, the second layer of protection that you talk about here, you wrote that the company has purchase orders and LOI's for over 43 million in orders. You see that?

A. Correct.

Q. So in other words you are saying that investors were protected from loss because

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Waste2Energy had millions in purchase orders and letters of intent. Correct?

A. Protected from loss? I mean, the debentures were not formally – there were no UCC's or collateralization formally against these debentures.

Q. So you weren't saying here that the company's purchase orders and LOI's for over $43 million was a layer of protection?

A. It may be a layer of protection.

Q. Well, those are in fact the exact words you used; correct?

A. Yeah, okay. Makes sense.

Q. That was misleading, wasn't it?

A. I would say that is misleading -- well, according to Peter Bohan it wasn't misleading. But for what you are getting at, I could see it being misleading.

Peter Bohan has always put a lot of confidence in the purchase orders and LOI's.

Q. Sir, I haven't asked you what Peter Bohan thought.

A. Okay.

Q. I am asking you what you knew. You

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knew this was misleading; isn't that true?

A. I knew that this was misleading? Perhaps – I can't say that with a hundred percent accuracy, that I knew one hundred percent that this was misleading. I mean, idealistic? Yes. Misleading? I can't say that with a hundred percent because they did have LOI's for 43 million.

Anyhow, I knew that this was misleading?

MR. JANGHORBANI: Your Honor, I would like to read another admission from page 141 of the July transcript.

THE WITNESS: What was the number?

MR. JANGHORBANI: Page 141, starting at line 14.

JUDGE FOELAK: Okay.

MR. JANGHORBANI: "Question: My question is, did you know that those statements were inaccurate and misleading?

"Answer: Yes.

"Question: You knew that at the time?

"Answer: At the time? I can't sit here and say that I didn't know."

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Q. Did I read that accurately, sir?

A. Yes, you did.

MR. HANTMAN: Your Honor, this is a repetition of what was read previously.

MR. JANGHORBANI: There is more than three, but there are three different representations here. He admitted earlier all three are false, your Honor. Now on the stand he is trying to take some of that back.

JUDGE FOELAK: Well, he said "I can't say I didn't know." That isn't quite the same as saying I did know.

THE WITNESS: Thank you.

MR. HANTMAN: And he was asked the question like three times before he gave a different answer.

JUDGE FOELAK: Okay. Let's move on.

MR. JANGHORBANI: Just to correct the record, he says right before that -- my question is "Did you know those statements were inaccurate and misleading?" "Answer: Yes." But I will move on.

Q. Now, there were no purchase orders for 43 million in orders. Correct?

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A. At the time, I thought there were purchase -- I mean, I just -- I just have a hard time remembering exactly all the -- what I testified to and juggling my memory now.

I know that Peter Bohan -- because I brought this up to Peter Bohan -- was adamant about the confidence of the LOI and the purchase orders. I know that.

Whether they were -- whether they came to fruition or not, probably not. But Peter Bohan put a lot of credence in these purchase orders and LOI's.

Q. Once again, I am not asking about what Mr. Bohan knew. I am simply asking you, there were no purchase orders for $43 million in orders on October 14th; isn't that true?

A. There was an LOI. Okay. Yes. Correct.

Q. And in fact all you had ever seen by October 14th were projections of future sales. Correct?

A. That is -- yes. That is accurate.

Q. In other words, sales that Waste2Energy hoped would materialize. Correct?

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A. That is correct.

Q. And this 43 million that we see here in Exhibit 34, that refers to one non-binding letter of intent. Correct?

A. Yes. St. Martin. Yes, that is correct.

Q. And you doubted that the 43 million LOI would ever result in any sales. Isn't that correct?

A. After the Benkovsky money, yes. Before the Benkovsky money, no, depending on when you are asking.

MR. JANGHORBANI: Mr. Chan, can I ask you to pull up Division 29, please.

Q. Do you have that on your screen, Mr. Lorenzo?

A. Yes.

Q. This is an e-mail from you to Lloyd McAdams; correct?

A. That is correct.

Q. Copying Gregg Lorenzo and Michael Molinaro; right?

A. Correct.

Q. And says "Waste2Energy projections."

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Correct?

A. Yes.

Q. You sent this e-mail?

A. Yes.

Q. There is an attachment to the e-mail. You see in the attachment line "Waste2Energy projections 2009"?

A. Yes.

Q. You sent that attachment as well?

A. Yes, I did.

MR. JANGHORBANI: Your Honor, I move admission of Division 29.

JUDGE FOELAK: Exhibit 29 is admitted.

(So received in evidence as Division Exhibit 29.)

Q. Now, you see you write that you are attaching the Waste2Energy projections. Correct?

A. That is correct.

Q. And you mean projected sales of Waste2Energy's products. Right?

A. Projected sales. Yes.

Q. Not actual sales?

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A. Not actual.

Q. Not confirmed purchase orders. Correct?

A. Well, I will let you know when I see it. I don't know if there were purchase orders on these

projections. Maybe just -- I don't know. I don't see the projections. It's been a while. I know that Peter Bohan put several different types of projection schedules together.

MR. JANGHORBANI: Mr. Chan, can you turn to the first page of the attachment? I think it is the third page of the document.

Q. This is the first page of the attachment, sir?

A. Yes.

Q. You see it says Caribbean Island, next to that, 43 million, next to that "LOI received?"

A. Yes.

Q. That is the $43 million letter of intent you are talking about in the deal points e-mail?

A. Yes, that is correct.

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Q. This refers to a potential sale in the island of St. Martin?

A. Yes. That is correct.

Q. That means that a customer was interested in purchasing Waste2Energy's units?

A. Correct.

Q. Didn't mean the customer actually had to purchase those units; right?

A. That is correct.

Q. And the St. Martin customer never came through with the purchase; right?

A. Not to my knowledge, no.

Q. And by September 2009 you didn't think it was ever going to come through; right?

A. That is after the Benkovsky money? That is correct.

Q. I am asking you for your best recollection. Isn't it true that by September 2009 you didn't think that the 43 million LOI was ever going to turn into purchases?

A. I didn't think anything was going to come through after the Benkovsky money was spent. I think Benkovsky was end of August, so

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your statement would be accurate.

He made his $2 million investment end of August and nothing significant happened with Waste2Energy after that so I lost confidence in all developments after -- I think what you said it accurate. In September, probably mid to late September.

Q. So sometime in September you lost confidence that this 43 million was ever going to happen?

A. Yes.

Q. Including this 43 million, there is no other number on this page that is not a projection. Right?

A. There is no other number on this page?

Q. That was a terrible question. Let me ask again. I apologize.

All the numbers on this page are projections. Correct?

A. This page here that I am looking at?

Q. Yes.

A. Caribbean? Dargavel? Yes. All projections.

Q. None of these numbers equated to

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actual sales to your knowledge?

A. Maintenance contract. The three-year maintenance contract could have been tangible. It says contract.

Q. For $725,000?

A. Yes. It does say contract and I know that they did have some revenues from --

Q. Are you just speculating now?

A. I don't remember.

MR. JANGHORBANI: Your Honor, I would like to read another admission from the July 26, 2012 transcript. Page 74.

MR. HANTMAN: Your Honor, if I may, I would like to move the entire transcript into evidence because --

JUDGE FOELAK: I will tell you what, Mr. Hantman. The Commission has cast a disapproving eye

on moving entire transcripts, but perhaps you could, after the hearing is over, counter-designate selected portions.

MR. HANTMAN: Well, just to move this trial along, rather than do this piecemeal in the course of direct or redirect testimony, I would like to reserve the right in any

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post-trial submission to put in things just from the record.

MR. JANGHORBANI: Your Honor, may I be heard on that point?

JUDGE FOELAK: I didn't actually mean -- what I meant was within a reasonable time after the hearing close, to counter-designate selected portions.

MR. HANTMAN: That would be fine, once I get the transcript --

JUDGE FOELAK: Then they would become part of the record.

MR. JANGHORBANI: Once I get the transcript so I can see exactly what page and line and study it. Now it is virtually impossible, not knowing what page or line the government is going to rely upon to go into the record to find something maybe in a whole different section which would explain something away or at least mitigate it or provide the right context.

MR. JANGHORBANI: Your Honor, the rules are clear that the evidence that forms the file is the evidence that comes in at the

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hearing. We would strenuously object to Mr. Hantman being able, after the hearing closes, to go back and reconsider whatever evidence he wants to put in.

JUDGE FOELAK: Okay. In that case, you can mutually agree on additional portions. I take his point, but in many cases, in order to avoid putting in the entire transcript the parties do mutually agree.

MR. HANTMAN: Why don't we try to work this out and if we can't reach a resolution then we can make the appropriate application to the Court.

JUDGE FOELAK: Okay. That sounds good.

MR. JANGHORBANI: May I? Page 74, beginning line 19. May I read, your Honor?

JUDGE FOELAK: Yes.

MR. JANGHORBANI: "Question: Is there any number on here that is not a projection as you understand it?

"Answer: In other words, is there any number on here that actually had been realized as gross revenue?

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"Question: Either that or the actual sale contract.

"Answer: No. I don't believe any of this equated into sales to my knowledge.

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes, you did.

Q. This e-mail that you sent, Division Exhibit 29, you sent that on August 3, 2009. Right?

A. I guess so. I am looking at the schedule --

MR. JANGHORBANI: Mr. Chan?

A. Yes.

Q. That was over two months before October 14th. Right?

A. Yes.

Q. Now, going back to Exhibit 34, the deal points e-mail --

Your Honor, I move Exhibit 29 into evidence. I think I forgot to do that -- oh, co-counsel tells me we moved it already.

JUDGE FOELAK: Yes.

MR. JANGHORBANI: I apologize. Long

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day.

Q. Exhibit 34, you see here the final layer of protection you refer to, that number 3?

A. Yes.

Q. You say that "Charles Vista has agreed to raise additional money to repay these debenture holders if necessary"?

A. Correct.

Q. So, in other words, you are saying that if Waste2Energy cannot for some reason pay back the 12-percent debenture holders Charles Vista would raise additional money to pay them back. Correct?

A. That is Gregg Lorenzo saying "I will pay you back. I will pay you back." That is what that is.

Q. That wasn't accurate; right?

A. Well, Gregg believed it.

Q. I am asking you. It wasn't accurate, was it?

A. Well...

MR. HANTMAN: Objection to the form of the question whether it is accurate or not.

A. I don't know if it is accurate or not.

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The kid raised money to pay back previous debentures in the past. Maybe he could, maybe he couldn't.

But as far as a formal agreement with debenture holders in the note, the actual note, I don't think there was a reference that there would be additional money raised from Charles Vista in a default event to pay the note.

Q. There wasn't an actual agreement in the note?

A. There was no actual agreement. I think that is accurate.

Q. And there wasn't an actual agreement between Waste2Energy and Charles Vista to do that; right?

A. No. That was just Gregg Lorenzo saying: Yeah, I will take you out, I will raise more money." That is some --

Q. So you agree with me, wouldn't you, that you can interpret this last layer of protection as being misleading. Correct?

A. Yeah. I'd say -- you couldn't hang your hat on it. Put it that way.

Q. In order to raise money Charles Vista

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would have to find people to invest in Waste2Energy; right?

A. Find accredited investors, yes.

Q. It needs to find investors willing to invest; right?

A. Accredited investors. Yes.

Q. You didn't think at the time, you didn't think Charles Vista would be able to do that. Right?

A. To do -- at the time, what time?

Q. As of October 14, 2009, you didn't think that Charles Vista would be able to find investors willing to invest additional monies in Waste2Energy?

A. Additional monies, meaning existing shareholders putting more money in, or new shareholders putting new money in?

Q. Meaning you didn't think that Charles Vista would be able to raise additional money to repay debenture holders. Correct?

A. I'd say that that's accurate, yes.

Q. And that is because Waste2Energy was not a good investment. Right?

A. I am sure they would be able to raise

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some money, but enough money to sustain growth, pay operations and repay debentures holders? I think that would be a stretch.

Q. You thought that at the time; right?

A. Yeah, yeah. After Benkovsky's 2 million, my point of view dramatically changed. Yes, that is accurate.

Q. And you didn't think that Waste2Energy debentures were a good investment. Correct?

A. That is not a hundred percent correct.

Q. That is not correct?

A. Not a hundred percent correct. There is more going on in that question than just the question.

I think that if it was positioned as a pure risk capital investment where, you know, you maybe put 2 percent of your investment, the overall portfolio into this type of situation and you knew it was high risk and you had the resources, perhaps you put up a dollar to make $5. But the investor would have to understand that fully and totally prior to the investment.

So, if it was a hundred percent bad, bad investment? I can't agree with that fully.

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I think if it was handled properly it still perhaps had some value.

Q. You didn't think that Waste2Energy would be able to raise enough money to meet its default obligations, did you?

A. Raise enough money to repay notes, you mean repay notes with investment capital? Solely and exclusive repay the note with investment capital?

Q. They wouldn't be able to raise enough money to keep from defaulting on its prior obligations. Correct?

A. Raise enough -- well, if they -- well, it was never the intention of repaying notes with new notes. The intention to repay the notes was with the proceeds from corporate growth. So although it turned out that the company didn't grow on the corporate side to repay the notes and meet default -- so it turned out that they were raising new money with new notes to pay old notes. But that was not the intention.

So, to answer your question, they wouldn't be able to raise new investment capital

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to pay defaulted notes. They wouldn't be able to raise new investment capital to pay defaulted notes. The notes were supposed to be repaid with gross revenue purchase orders and, you know, the operations of the company.

Q. You didn't think this debenture investment was a worthwhile investment; right?

A. At this stage?

Q. October 14th?

A. Yes, that's correct.

Q. And that is because Waste2Energy's financial condition was horrible. Right?

A. That's because prior -- I say this in my testimony. Forgive me if -- I don't remember everything I said in my testimony, so maybe I made a couple of unintentional mistakes.

But one thing I do know is that prior to Steven Benkovsky's $2 million, Waste2Energy always said they never got enough money to really grow the business. And that made sense. They only had enough money to repay angry noteholders and to pay operations.

But when they got Benkovsky's 2 million all at once and they still couldn't

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grow the company properly with that big tranche of money, that is when my point of view changed and I lost confidence in the management of Waste2Energy to grow the business.

Q. Okay.

A. So it is all really dependent on that 2 million, before and after.

Q. In fact, with this 12 percent debenture offer we have been looking at, Waste2Energy needed to sell $4

million of those debentures just to be able to pay back earlier debt. Correct?

A. That sounds accurate. And there were -- there were proposals made to Gregg Lorenzo in order to mitigate this risk but he didn't -- he didn't use them.

Q. All right. And you thought it was highly unlikely, didn't you, that Waste2Energy was going to have enough corporate growth in order to pay back the money that it had borrowed. Right?

A. Yeah. Kind of like in October, mid -- yeah. Kind of that whole September, October thing kind of changed everything around. Yes.

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Yes, I'd say that's accurate.

Q. In fact you knew that Waste2Energy needed to grow by about 21 percent just to pay back the money it had borrowed. Right?

A. It needed to grow at 21 percent to repay the money it borrowed? I think I said that somewhere. That number rings a bell.

Q. That is accurate?

A. I think I even said that in my testimony.

Q. And that is accurate?

A. Yes. As memory serves me, yes.

Q. By comparison, a Dow Jones company grows 14 to 16 percent?

A. The multiple is. I don't know what the gross is but the multiple is.

Q. Waste2Energy wasn't a Dow Jones company; right?

A. No. That is accurate. I will agree with you on that one.

Q. So highly unlikely that it would be able to grow enough to pay debenture holders back. Right?

A. I'd say Peter Bohan would have

[p.291]

disagreed but I'd say that's accurate.

Q. Didn't you also know in October 2009 that if Waste2Energy defaulted on its 12-percent debentures it would be very difficult for it to raise additional money?

A. Absolutely, yes, I knew.

Q. It would severely compromise Waste2Energy's ability to raise more money. Right?

A. I knew that long before October, yes. Go ahead.

Q. Why would you lend money to a company that was unable to pay back its prior investors; right?

A. That is correct.

Q. Charles Vista had already -- sorry. Withdrawn.

Charles Vista, we have been talking about the investment banking operations. Charles Vista was also a registered broker-dealer?

A. Correct.

Q. And as of October 2009 Charles Vista had already put too many of its brokerage

[p.292]

clients into Waste2Energy. Correct?

A. That is my opinion, yes.

Q. In fact, about 70 percent of Charles Vista's money under management was invested in Waste Energy. Correct?

A. I think I recall saying that in my testimony, correct.

Q. And you believe that to be true; correct?

A. Yes, I believe that to be true.

Q. In other words -- to make sure I understand, of all the money Charles Vista managed for its clients, 70 percent of that money was invested in Waste2Energy?

A. That is what I was led to believe.

Q. And you thought that was way too much; right?

A. Yes. And I met Gregg and Mike on that several times.

Q. You didn't think that was how a brokerage firm was supposed to run; right? You knew that?

A. Yes.

Q. And that was because it subjected the

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brokerage clients to far too much risk. Right?

A. Yes. Absolutely.

Q. You really had no basis to say that Charles Vista would be able to find more money to pay debenture holders back; right?

A. I had no basis to say that Charles Vista...

Well, Charles Vista -- I mean, I know that Gregg Lorenzo had a couple of friends that owned small brokerage firms that were looking -- he made presentations to see if they would help raise money as a selected dealer. I don't know if that falls under the umbrella of solely, exclusively Charles Vista.

But based on what was going on with Waste2Energy and Charles Vista in October, I think it is accurate to say that Charles Vista would not have the buying power or the resources to properly fund Waste2Energy in order to repay the debentures. I think that is accurate.

Q. You knew it was wrong to send the deal point e-mails; right?

A. Yes. I know it is wrong now.

Q. You knew it was wrong at the time,

[p.294]

didn't you?

A. Well, after I hit the send button and reviewed what was going on I wish I never sent it. I don't have

any history of doing this. This was just a severe oversight.

Q. So let me make sure I understand. You hit the send button and then you went back and looked at your e-mail and realized you shouldn't have sent it?

A. No, not exactly. I know that Michael Molinaro reviews all -- reviews everything. He usually retracts any e-mails that are inaccurate. I didn't see a retraction.

Well, there was just a -- there was just a lot going on at Charles Vista there, like in my testimony says. You know, it was an honest mistake. There is just a loft things going on here because of my tenure at Charles Vista and the situation that I was in at the time.

Q. Charles Vista received fees to act as the exclusive placement agent for the debentures. Correct?

A. That is correct.

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Q. It was paid about 18 percent from the proceeds of the debenture offering?

A. Correct.

A. 10 percent commission, 3 percent non-accountable expense, 5 percent investment banking fee bonus.

Q. That totals 18 percent?

A. Yes, which I received -- for the record, I received 1 percent of that.

Q. You received 1 percent of it?

A. 1 percent of the 18. Yes.

Q. Charles Vista's fees, this 18 percent, you thought that was exorbitant; right?

A. Yes. It was one of my recommendations to fix this was to reduce their fees.

Q. Gregg Lorenzo had promised to give you a cut of any of the money you raised selling debentures. Correct?

A. Any of the money I raised selling debentures? I got a 1 percent of what was raised. 1 percent of what I -- if I did recommend it and solicit it directly to my clients, I would get whatever the brokers were getting. I believe they were getting 6 or

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7 percent of the 10.

Q. They were getting 7 to 9 percent?

A. He varied it depending on the needs of the company.

Q. So Gregg Lorenzo told you you would get between 7 and 9 percent of the money you raised selling debentures. Correct?

A. Yes. To clients I was the registered rep of.

Q. During this October 2009 time period, September, October, you were focused on your work at Charles Vista. Right?

A. Well, I was asked to bring another deal in. So although -- you know, that guy Vess kind of picked up a lot of investment banking slack. Gregg asked me to train Vess. I did the best I could and -- you know, I was focused but, you know, I was also spending time on working with May Davis and Gusrae Kaplan & Bruno, who was the attorney for China Biancotang.

It was September and October when I began to work on the selective dealers agreement between May Davis and Charles Vista in American capital, another banker in the China Biancotang

[p.297]

deal.

So I was involved in this whole thing but, you know, there was other things going on, started other things going on other than Waste2Energy as well.

Q. But you weren't checked out from your duties at Charles Vista?

A. Formally checked out?

Q. Mentally checked out.

A. Mentally checked out? Yeah, by September -- by September -- you know, there is a whole bunch of stuff here. By September I was financially broke.

What was going on was I was supposed to be reimbursed to pay Sara -- I paid Sara Holmes out of my own pocket and Gregg promised to reimburse me. She worked for Charles Vista, but since she came with me and Charles Vista was a start-up, they didn't have much money.

I said, "Gregg, when the company gets on their feet."

He said, "Okay, Frank, I will reimburse you for Sara Holmes:

I also was doing a commute from north

[p.298]

Jersey. They wanted us to work 8 to 8. So Michael Molinaro had an apartment at Battery Park. He said, Frank, take the apartment and we'll reimburse you." But I never got reimbursed.

Come August and September I was broke. And they never reimbursed me for the money, parking, commute. I was out about close to 80,000. I only made 1 percent of the debentures. So my whole take at Charles Vista was about 110 to 120,000 and 45 of it went to Sara Holmes, 15,000 went to the second apartment, plus my own living expenses.

So, by August I was starting to go into debt and borrow money because they just said, "Frank, we just can't reimburse you right now."

So the point I am trying to make is there were other things going on. I don't want to sound -- making a cop out, but there were some other things going on at Charles Vista which leads me to believe why I made this mistake in the first place. Just very unlikely that I did something like this. I missed it.

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Q. Well, isn't it fair to say that you were proud of the work that both you and Gregg Lorenzo were doing at Charles Vista in October 2009?

A. In October?

Q. Yes. October 2009. You were proud of that work; right?

A. Proud in October 2009? I may have said that somewhere but I don't -- I can't say -- maybe earlier than that I was proud. I was proud until Sara Holmes told me, "You got to start listening to what these guys are telling the clients."

Q. When was that?

A. I can't recall but it was probably in the summer.

Q. But it is also fair to say, isn't it, that in October 2009 you thought that Charles Vista was a high quality investment bank?

A. In October 2009?

Q. Right?

A. I am sure I said it. That is why you are saying it. In October 2009. Yeah, well, I am sure if you are saying it I said it

[p.300]

somewhere. But if I said it in --

MR. HANTMAN: Let me clarify. Just because counsel asked you a question doesn't mean you have to have said it.

JUDGE FOELAK: Yes. Don't guess.

MR. JANGHORBANI: And Mr. Hantman is interjecting.

THE WITNESS: I don't know if October is the right time.

Q. I am not asking how you testified previously. I am asking, as of October 2009 is it fair to say that you were proud of the job both you and Gregg Lorenzo were doing at Charles Vista?

A. October? I know I was proud at some time. I don't know if it was October. I'd say that was late. I would say that was late.

Q. So you weren't proud of what was going on at Charles Vista by October 14, 2009? Is that what you are saying?

A. Well, proud? I think proud is a stretch.

Q. All right. And you didn't think that Charles Vista was a high quality investment bank

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in October 2009?

A. Well, it started with the right intentions but no, no, not the way it was being handled.

Q. You testified before the SEC on November 12th of 2009, didn't you?

A. Did I? I guess so. November 12, 2009 I testified?

Q. If I can ask you to turn to the transcript labeled November 12, 2009? If you look at the first page, do you see that?

A. Yes.

Q. Does that refresh your recollection that you testified before the SEC staff on November 12, 2009?

A. November 12, 2009. Yes.

Q. And you were under oath. Correct?

A. Correct.

Q. And you told the truth. Correct?

A. To the best of my knowledge.

Q. And you told the SEC staff -- you can set that document aside, sir.

You told the SEC staff, didn't you, that you were executing on your and Gregg

[p.302]

Lorenzo's vision to open up a full blown, high quality investment banking Division. Correct?

A. At the start of Charles Vista, yeah.

Q. But that is what you told the SEC staff in November 2009, isn't that right?

A. Yes, but I don't know what time frame I was referring to.

Q. As of November 2009; isn't that correct?

MR. HANTMAN: Your Honor, it is argumentative.

Q. Isn't it also the case that you told the staff in November 2009 that Gregg Lorenzo was an honest guy? Right?

A. November 2009?

Q. Yes.

A. I may have gotten my years wrong. By November 2009 there is no way on God's green earth I thought Gregg Lorenzo was an honest guy.

Q. There is no way you told the SEC staff that under oath?

A. I may have made a mistake with the time frames. By November? November 2009? I mean, I may have gotten the years wrong.

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Q. And you testified that you still believed in the Waste2Energy deal in November 2009, didn't you? That is what you told the staff; isn't that true?

A. I told the staff that after Benkovsky made his $2 million investment I no longer believed in Waste2Energy.

MR. JANGHORBANI: Your Honor, I would like to read a couple of admissions. I am trying to speed this along. The first is in the November 12, 2009 transcript, page 203, starting at line 16.

MR. HANTMAN: What page?

JUDGE FOELAK: 203.

THE WITNESS: Okay.

MR. JANGHORBANI: May I read, your Honor?

JUDGE FOELAK: Okay.

MR. JANGHORBANI: "Question: Has Charles Vista done any investment banking deals?

"Answer. We are in the middle of working on Waste2Energy. We believe in the project. We were offered -- there was a China deal doing 108 million with 16 million net

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income. We were part of the selling group. $11 million project. We were offered to place $2 million of it so we started to bring in those high quality projects. So we do have two investment banking projects."

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes, you did.

MR. JANGHORBANI: And from the same transcript, your Honor, I would like to read two more excerpts. The next is at page 22.

THE WITNESS: Same date?

MR. JANGHORBANI: Same date. November 12, 2009, page 22.

JUDGE FOELAK: Okay.

MR. JANGHORBANI: Starting at line 6. May I read, your Honor?

JUDGE FOELAK: Yes.

MR. JANGHORBANI: "Question: Of what year?

"Answer. 2008, last year. I wasn't there very long, maybe nine, ten months. And then Gregg Lorenzo -- I got along. Gregg is a bright guy, honest guy. He started the business

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very naive but he is a hard working, bright guy, very talented kid. We share the same last name; we are not related. It is circumstances. We came together and he asked me to come in and help him with Charles Vista. That is the Cliff Notes version of 22, 23 years of history."

Q. Did I read that correctly, Mr. Lorenzo?

A. Yes. Probably how I felt about him at the time, at the time he asked me to come into Charles Vista.

Q. "At the time" being November 2009 when you testified to the SEC staff?

A. No. When he asked me to -- when he went and asked me to come over to John Thomas. That is -- I think that whole thing was when we left Mercer Capital and went to John Thomas. Correct?

Q. Except your answer was all in the present tense; right?

A. Is it?

Q. "Gregg is a bright guy, honest guy." That is the present tense; right?

A. Well, I mean, by November 2009 --

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(inaudible.)

JUDGE FOELAK: Something about "there was no love lost"?

THE WITNESS: By November 2009 there was no love lost between me and Mr. Lorenzo.

Q. But you didn't tell the SEC about that; right?

A. No, but I think there is some testimony in here about falling out with Gregg Lorenzo somewhere else.

Q. Right, but on November 12, 2009, less than a month after you sent the deal points e-mails you didn't tell the staff about any problems you may have been having with Gregg Lorenzo; correct?

A. I think it wasn't asked what problems I was having with him then. It was asked how I met him back in 2008.

MR. JANGHORBANI: I would like to read a final excerpt that goes to this, your Honor. Same transcript, page 201, starting on line 7.

THE WITNESS: 11/12?

MR. JANGHORBANI: 11/12/2009, page 201, starting line 7.

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JUDGE FOELAK: Okay.

MR. JANGHORBANI: May I read, your Honor?

JUDGE FOELAK: Go ahead.

MR. JANGHORBANI: "Question: Can you tell me what you and Gregg discussed in term of what you were supposed to do at Charles Vista?

"Answer: With pride. We were going to leave these early stage companies because they exposed the firm and clients to way too much risk. It seemed like our experience where no matter how good our intentions were, it seemed like there were so many thing that can wrong with these early stage companies.

"They never seemed to hit revenue when they said they were going to. They always seemed like they were always cash poor and never seemed to have enough resources to maintain public listing, pay the accountant, the attorneys, the filings, the 8-K's.

"Our vision, and we are doing it now, is to open up a full blown high quality investment banking Division with analysts, due diligence, the right legal team and the right

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deal source, whether it be companies doing 50, 100 million in revenue with at least 12 percent profit margins, with an advisory board, certified financials, all the early stage stuff that would be done already.

"And we would take less commission and give our clients high quality projects. And we would get away from the previous world that we were in. Institutional clients, PIPE funds, hedge funds, large accredited investors and bring something to our clients that we could be proud of, that we felt it was viable and

that it would work out properly and give the client a good chance."

Q. Did I read that correctly?

A. Yes.

Q. So you didn't tell the SEC staff that you saw any problems with the way Charles Vista or Gregg Lorenzo were operating when you testified in 2009. Right?

A. In 2009 I don't recall when -- I made statements about how they were selling and how they were way too top heavy in Waste2Energy.

Q. You don't recall telling any of that

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to SEC staff when you testified in 2009?

MR. HANTMAN: I take exception to the characterization. He is asking questions -- he is not saying "As of today how do you feel about Gregg Lorenzo? How do you feel about having started a new company?"

It is true he is being questions on this day but because he is being asked questions on that day doesn't mean every question relates to how he felt about Gregg Lorenzo on that particular day.

This client may not be too articulate but clearly if this is being put in for evidentiary value it is a total distortion. Everything he says on that day is on that day. If I say to someone, "How did you meet your wife or girlfriend," and I go into it and then the question is, "On that day you met her?" I'd say, "No, of course I didn't meet her today."

JUDGE FOELAK: To shortcut this, Counsel, it seems like maybe the present tense might be used maybe ungrammatically at times.

MR. JANGHORBANI: Mr. Hantman's point is exactly the point, your Honor. On that day,

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on November 12, 2009, when asked about his feelings about Charles Vista and Gregg Lorenzo, he answered this way in the present tense. He did not say any of the things he is saying now.

MR. HANTMAN: Maybe it is confusing. "We were going to leave." Obviously, he is referring to the past.

JUDGE FOELAK: He did read -- not to get into it. "And we are doing it now."

Anyway --

MR. JANGHORBANI: It says what it says, your Honor.

Q. Now, you didn't leave Charles Vista until February 2010. Right?

A. That's correct.

JUDGE FOELAK: Counsel, when you come to a good breaking point it might be not a bad idea to break.

MR. JANGHORBANI: I have one more very short line of questioning that may help to wrap this up.

JUDGE FOELAK: It may? Okay.

MR. JANGHORBANI: I will strive not to go back to testimony.

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Q. After you left Charles Vista you continued to work in finance. Correct?

A. Correct.

Q. You became senior vice president of investment banking at American Capital Partners?

A. Yes, I did.

Q. At some point you started working a Hunter Wise Financial?

A. Yes, I did.

Q. When did you start that?

A. I believe it was November 2010.

Q. And Hunter Wise is an investment bank?

A. Private equity, M and A. No accredited -- no individual clients, hardly any.

Q. You are a managing director?

A. Yes.

Q. You primarily focus on funding private and public companies?

A. Not lately. Mostly private equity groups and hedge funds and institutional financing. Every now and then a public deal, public company needs financing. Anyhow, that is primarily where I am at.

Q. So it is not accurate to say you

[p.312]

primarily focus on the funding of private and public companies?

A. Yeah. I'd say that's accurate. It is a different profile but -- than Charles Vista, but it is accurate.

Q. You are still at Hunter Wise?

A. Yes.

MR. JANGHORBANI: This is a good time to break, your Honor.

JUDGE FOELAK: Very good.

You can resume your place in the audience.

Do you have any idea how much longer you will be tomorrow?

MR. JANGHORBANI: I think very, very little, your Honor. If you give me one second I can give you a better sense.

(Pause.) Really probably just a couple of minutes.

JUDGE FOELAK: Mr. Hantman, do you have a guesstimate as to -- a guesstimate?

MR. HANTMAN: I would try to get through this in like two hours, two and a half hours.

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JUDGE FOELAK: Okay. Just asking.

MR. HANTMAN: It depends whether I am going to go through all these transcripts and just pick out the page and line and read it into the record and say to the witness, "On such and such day did you say," page and line and let him read it into the record.

JUDGE FOELAK: I would suggest that perhaps you consider, even if it is after the hearing, conveying your designations to the Division and seeing if they have any counter-designations and putting them in then.

MR. HANTMAN: I would prefer that. I think it will save time and I don't need the dramatization by putting out two or three lines of something, though counsel has done an excellent job and I commend him.

MR. JANGHORBANI: Again, your Honor, I don't know which witness he is speaking about specifically but assuming it is his client --

JUDGE FOELAK: I am sure it is.

MR. JANGHORBANI: I will object to him putting in his own client's testimony. It is classic hearsay when used by that witness for

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that witness. He is not unavailable.

JUDGE FOELAK: For all I know he is going to put in the ten lines before your questions, to put it in context. That is only fair.

MR. JANGHORBANI: If he is putting it in for contextual purposes we may be able to talk about it. But if he is putting it in for the truth of that statement

we will have a problem with it. Maybe the best way is for us to talk about it and see where we end up.

MR. HANTMAN: That is a good idea.

JUDGE FOELAK: Okay. Very good. Ten o'clock tomorrow.

MR. HANTMAN: Your Honor, if you don't mind, I had a prior engagement. Would it make much difference if we started at 10:30 tomorrow? We won't be going beyond tomorrow anyway.

JUDGE FOELAK: It's okay with me.

MR. JANGHOBANI: No objection.

JUDGE FOELAK: All right. 10:30.

(Time Noted: 5:19 p.m.)

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SCOPIST CERTIFICATE

I, JOYCE THOMPSON, hereby certify that the foregoing transcript consisting of 315 pages is a complete, true and accurate transcript of the investigative hearing, held on Wednesday, September 18, 2013, at 3 World Financial Center, New York, New York, in the matter of GREGG C. LORENZO, FRANCIS V. LORENZO, and CHARLES VISTA, LLC.

I further certify that this proceeding was reported by DEBRA STEVENS and that the foregoing transcript has been scoped by me.

_____ _____

JOYCE THOMPSON Date

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UNITED STATES SECURITIES AND
EXCHANGE COMMISSION
REPORTER'S CERTIFICATE

I, DEBRA STEVENS, Repoter and Notary Public hereby certify that the foregoing transcript of 315 pages is a complete, true, and accurate transcript of the testimony indicated, held on September 18, 2013, at the Securities and Exchange Commission, 3 World Financial Center, New York, New York, in the matter of: GREGG C. LORENZO, FRANCIS V. LORENZO, and CHARLES VISTA, LLC.

I further certify that this proceeding was reported by me and that the foregoing transcript was prepared under my direction.

_____ _____

DEBRA STEVENS Date

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PROOFREADER'S CERTIFICATE

In the Matter of:	GREGG C. LORENZO, FRANCIS V. LORENZO, and CHARLES VISTA, LLC,
File Number:	3-15211
Date:	September 18, 2013
Location:	3 World Financial Center New York, New York

This is to certify that I, DEBRA STEVENS, the undersigned, do hereby swear and affirm that the attached proceedings before the United States

Securities and Exchange Commission were held according to the record, and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

_____ _____

DEBRA STEVENS Date

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding File No. 3-15211

In the Matter of GREGG C. LORENZO, FRANCIS V. LORENZO, and CHARLES VISTA, LLC, Respondents.	))))))

26 Federal Plaza
Courtroom 238
New York, New York

September 19, 2013
10:31 a.m.

BEFORE: CAROL FOX FOELAK,
Administrative Law Judge

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APPEARANCES:

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Frank Lorenzo, Respondent

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PROCEEDINGS

JUDGE FOELAK: Good morning.

MR. JANGHORBANI: One procedural issue before we recall Mr. Lorenzo to the stand.

We thought about your Honor's advice yesterday about Mr. Lorenzo's testimony transcript, and we have agreed instead of going back and forth on designations and cross-designations, the parties will stipulate to just mark the entirety of his July 2012 transcript as an exhibit.

JUDGE FOELAK: That sounds good. I mean, it is not that long.

MR. JANGHORBANI: No, it is not that long. If that is acceptable to your Honor, I will just go ahead and have one marked.

JUDGE FOELAK: Okay. That will be Exhibit –

MR. JANGHORBANI: It would be Division 132, just keeping with the numbering we have now, not that there will actually be 132 exhibits.

JUDGE FOELAK: So Division Exhibit 132 consisting of Frank Lorenzo's July 26, 2012 investigative testimony is admitted.

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(So received in evidence as Division Exhibit 132.)

MR. JANGHORBANI: Your Honor, would you like me to hand up a marked version?

JUDGE FOELAK: Okay. Thank you.

MR. JANGHORBANI: The Division then recalls Mr. Lorenzo to the stand.

JUDGE FOELAK: I would like to remind you you are still under oath from yesterday.

Whereupon,

FRANCIS LORENZO,

having been previously duly sworn/affirmed, was examined and testified further as follows:

THE WITNESS: Can I bring this?

JUDGE FOELAK: Certainly.

THE WITNESS: Thank you.

MR. JANGHORBANI: May I proceed, your Honor?

JUDGE FOELAK: Yes.

CONTINUED DIRECT EXAMINATION

BY MR. JANGHORBANI:

Q. Morning, Mr. Lorenzo.

A. Good morning.

Q. Toward the end of the day yesterday

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you testified that you were proud of the work at Charles Vista until Sera Holmes told you about some of the things that the brokers had been saying to clients. Do you recall that?

A. Yes, I do.

Q. And that was in about the summer of 2009?

A. Late, late summer.

Q. So Ms. Holmes told you something that made you no longer proud to work at Charles Vista. Correct?

A. I'd say that's accurate.

Q. She told you that there was something wrong going on at Charles Vista. Right?

A. Yes.

Q. What did she tell you?

A. She said the brokers are not being a hundred percent accurate in their presentations.

Q. And that would include Gregg Lorenzo. Correct?

A. I would imagine so, yes.

Q. What specifically did she tell you about inaccuracies that the brokers were making in their representations to clients?

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A. I don't recall her being specific with any -- with any -- any items or any -- any statements. It was just kind of an overall statement that it was very high pressure and they seemed like they are stretching the truth. I think she used the words "stretching the truth."

Q. And did you ask her for specifics?

A. No, I don't recall that I did.

Q. So you didn't want to know how the brokers at Charles Vista were stretching the truth to their clients?

A. Well, you know, I knew that they were doing high pressure sales, standing up and overcoming objections but, you know, I did talk to Molinaro and Gregg about the statements about the collateral. I remember telling them, sitting them down saying, "Be careful what you say about the asset in your presentation backing up the debentures because it is not -- it is not formally -- it is not formal collateral. There is no UCC filed against that asset."

Q. I want to understand this conversation with Ms. Holmes a little bit better, though.

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So Ms. Holmes had told you something about the brokers, including Gregg Lorenzo, stretching the truth in their presentation to the clients. Right?

A. Yeah, if I recall correctly, something like that.

Q. That is what you just testified to. But you didn't ask her for any further specifics?

A. I don't -- I don't remember.

Q. You don't remember asking her for specifics?

A. No.

Q. And that is because you didn't want to know -- you didn't want to know what was going on, did you?

A. No, that is not accurate. I mean, I did speak to Mike and Gregg about the sales practices.

Q. Now, you have been mentioning a Mike. I think his name has come up a couple of times through the last couple days. That is Michael Molinaro. Is that correct?

A. Yes, that's correct.

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Q. He was Charles Vista's compliance officer. Right?

A. Correct.

Q. His job was strictly compliance. Right?

A. As far as I knew, yes.

Q. And you didn't have much substantive discussion with Mr. Molinaro about Waste2Energy, did you?

A. He was in all the meetings with me and Gregg most of the time.

Q. Well, you don't recall having much tangible discussions with Mr. Molinaro about Waste2Energy, do you?

A. You know, I am trying to remember. I know he was a -- I'd say he was in at least 50 percent of the meetings and he was -- I remember there was a whole bunch of investors came up from Waste2Energy. He was in that meeting as well. And he was in the presentation meetings to the brokers in the morning when Waste Energy would come up.

Q. You recall you testified before the Commission on July 26, 2012. Right?

[p.327]

A. Yes.

Q. You testified about that yesterday. Correct?

A. Yes, I did.

Q. And you told the truth during that testimony?

A. The truth as I know it at that time, yes.

MR. JANGHORBANI: Your Honor, I would like to read from page 25 of that transcript.

JUDGE FOELAK: Okay.

MR. JANGHORBANI: Starting at line 25.

THE WITNESS: What date was that?

MR. JANGHORBANI: The July 26, 2012 transcript, page 25, starting at line 25.

May I read, your Honor?

JUDGE FOELAK: Yes.

MR. JANGHORBANI: "Question: Generally what did you speak to Mr. Gregg Lorenzo about?

"Answer: The corporate finance obligations of Waste2Energy.

"Question: And what about Mr. Molinaro, same question?

[p.328]

"Answer: Looking back I don't know if there was much substantial tangible discussion with Molinaro. I don't recall."

Q. Did I read that accurately Mr. Lorenzo?

A. Yes, you did.

MR. JANGHORBANI: Mr. Chan, can I ask you to pull up Division 35?

Q. Do you have that on your screen, Mr. Lorenzo?

A. Yes, I do.

Q. Do you see that says background questionnaire for Francis V. Lorenzo?

A. Yes.

Q. You see there is handwriting on these pages?

A. Yes.

Q. That is your handwriting. Correct?

A. That is correct.

Q. You filled out this form?

A. Yes, I did.

MR. JANGHORBANI: Your Honor, I would like to move the admission of Exhibit 35.

JUDGE FOELAK: Exhibit 35 is admitted.

[p.329]

(So received in evidence as Division Exhibit 35.)

Q. You filled this out truthfully and accurately?

A. Yes, I did.

Q. You can set that document aside.

You recall yesterday we spent some time discussing the $10 million in intangible assets?

A. Correct.

Q. And we spent some time discussing how you had communicated with Waste2Energy about the status of that asset over the summer and fall of 2009. Do you recall that?

A. How I communicated about the status of that asset? Do I recall -- I don't recall that.

Q. Fair enough.

MR. JANGHORBANI: Mr. Chan, can I ask you to pull up Division 27?

Q. Do you have that on your screen, Mr. Lorenzo?

A. Yes, I do.

Q. You see that is an e-mail from Francis Lorenzo to a number of people?

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A. That's correct.

Q. Dated April 29, 2009. Correct?

A. Yes.

Q. You sent this e-mail in April 2009. Correct?

A. Yes, I did.

Q. And you sent it to Chris Taylor and Peter Bohan. Correct?

A. Yes.

Q. A number of other people are cc'd right?

A. Correct.

Q. Mr. Taylor and Mr. Bohan were at Waste2Energy. Right?

A. That is correct.

Q. You write down in the body, you say -- well, before I get there, the subject matter is "Intangibles"?

A. That is correct.

Q. So you are talking about the intangible asset --

A. Yes.

Q. -- of Waste Energy; correct?

A. Yes.

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Q. The $10 million we spent a lot of time talking about?

A. Yes.

Q. You write at the bottom "On the part asset part of the FS." You see that?

A. Yes, I do.

Q. You mean financial statement there?

A. Yes, I do.

Q. The next page you write approximately 10 million of the approximate 12 million is intangibles. Do you see that?

A. Correct.

Q. Then you say "Can someone tell me what this is?" You see that?

A. Yes.

Q. It is fair to say in April 2009 you were asking Waste2Energy about this 10 million intangible asset. Right?

A. Yes, that is correct.

Q. You can set that document aside, sir.

MR. JANGHORBANI: Your Honor, I offer Exhibit 27.

JUDGE FOELAK: Exhibit 27 is admitted.

(So received in evidence

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as Division Exhibit 27.)

MR. JANGHORBANI: Mr. Chan, can you pull up Division 66?

Q. Mr. Lorenzo, you see this is a Form 8-K of Waste2Energy's?

A. Yes.

Q. The date of the report is September 21, 2009. Correct?

A. Correct.

Q. If you turn to the next page you see it is signed by Craig Brown?

A. Yes.

Q. It is dated September 22, 2009. You see that?

A. That is correct.

Q. So it is fair to say that Waste2Energy filed this Form 8-K on September 22, 2009?

A. That is correct.

Q. Fair to say you read this document?

A. Yes, I probably -- I skimmed it. I'd say that's correct.

Q. You see the first line under item 3.01 it says that FINRA had notified Waste2Energy Holdings, Inc. that on August 20, 2009 that it's

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delinquent in filing its 10-Q for the period ended June 30, 2009. Do you see that?

A. Yes.

Q. And that is the 10-Q we talked about yesterday, right?

A. We talked about a few 10-Q's.

Q. The 10-Q where the company reported its June 30th unaudited numbers?

A. The October 1st filing?

Q. Yes.

A. Yes, correct.

Q. The 10-Q that included the audited numbers as well. Correct?

A. Correct.

Q. You knew on September 22, 2009 that Waste2Energy was delinquent in getting its auditeds filed, right, its audited numbers?

A. I think I was -- the date this was filed was September 21st, correct.

Q. It says dated September 22, 2009. You see that?

A. Yes. So I found out about this then.

Q. Okay. But it is fair to say that on September 22, 2009 you knew that Waste2Energy

[p.334]

was delinquent in filing its audited numbers. Right?

A. Yes.

Q. You can set that document aside, sir.

MR. JANGHORBANI: Your Honor, I offer Division 66.

JUDGE FOELAK: Exhibit 66 is admitted.

(So received in evidence as Division Exhibit 66.)

MR. JANGHORBANI: May I have one minute of the Court's indulgence?

JUDGE FOELAK: Certainly.

MR. JANGHORBANI: Thank you.

(Pause.)

MR. JANGHORBANI: I have nothing further, your Honor.

JUDGE FOELAK: Very good. Cross.

MR. JANGHORBANI: One question, your Honor. Is this going to be Mr. Hantman's entire examination of Mr. Lorenzo? That is to say is he going to do direct and cross, or does he plan on recalling him in their case in chief.

JUDGE FOELAK: Well, I think that should be Mr. Hantman's option.

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MR. HANTMAN: What do you prefer?

MR. JANGHORBANI: We don't have any other witnesses, so I think it --

JUDGE FOELAK: I guess he wants to know -- theoretically, if you had, quote/unquote, cross-examination and he had redirect or something, then he would rest, whereas if you do the whole thing at once, which may be more convenient to you, then the point at which he rests is --

MR. HANTMAN: I would have no problem if the government wants to rest.

MR. KAUFMAN: We are not resting now, your Honor. We are just wondering if it will be done all at once. We are not resting now. We would want a break before we rest to make sure we have got everything in.

We are wondering if this would be more efficient for this to be done all at once. That is all. If it isn't, fine.

MR. HANTMAN: If it is more efficient for your Honor and the SEC, I will combine the two.

JUDGE FOELAK: Okay. What were you

[p.336]

planning to do?

MR. HANTMAN: I was going to do both but I might as well just stay with this witness --

JUDGE FOELAK: It probably would be more efficient.

MR. HANTMAN: Okay.

CROSS/DIRECT EXAMINATION

BY MR. HANTMAN:

Q. Mr. Lorenzo, you have been in the investment banking business for how many years?

A. Investment banking?

Q. Yes.

A. Since 1993.

Q. During that period of time, prior to this situation, had you ever been accused of fraud?

A. No.

Q. Had you ever been accused of making any misrepresentations?

A. No.

Q. Have you ever had any clients of yours sue you in FINRA for making material misrepresentations or trying to defraud them?

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A. No.

Q. Have you ever been a party to any lawsuits, civil lawsuits where you were alleged to have defrauded people?

A. No. However, there is a pending FINRA matter with a debenture holder, a client of Gregg Lorenzo's, in which I was named. That hasn't been resolved yet.

Q. Does that relate to W2Energy?

A. Yes. It is the same -- it is the debentures.

Q. And that has not been resolved yet?

A. No.

Q. Do you have your FINRA report here today?

A. Yes. I printed it out last night.

Q. This is a public record of any disciplinary actions with FINRA?

A. Correct.

Q. This is available on the internet?

A. Finra.org.

Q. It is a public record?

A. Yes, it is.

MR. HANTMAN: Obviously, the

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government is aware of this FINRA report. I would ask the Court to take judicial notice. I have a hard copy here. Unfortunately, I don't have a copy for the government but I would like to put this in evidence, your Honor, or at least let the Court take judicial notice of it.

JUDGE FOELAK: I am not sure I can take judicial notice of it.

MR. JANGHORBANI: Your Honor, this wasn't on their exhibit list. We don't have a copy of it. I am at

a little bit of a loss. Normally I wouldn't object to a CRD FINRA report being put in. I think we are at least entitled to have a copy of it to follow along.

JUDGE FOELAK: Why don't you give him your copy.

MR. JANGHORBANI: Thank you. Is this being marked as an exhibit?

MR. HANTMAN: It will be marked. Do you want me to have it marked first?

MR. JANGHORBANI: Well, I think it needs to be in the record.

MR. HANTMAN: It will be Respondent's Exhibit 1.

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MR. JANGHORBANI: May I take a second to look at it before it goes in to make sure it is what I think it is?

JUDGE FOELAK: Certainly.

(Pause.)

MR. JANGHORBANI: We don't have an objection to putting in Respondent 1.

JUDGE FOELAK: Respondent Exhibit 1 is admitted.

(Respondent Exhibit 1 received in evidence.)

MR. HANTMAN: Thank you.

Q. Other than this proceeding here, have you ever been accused of sending out e-mails to people with information that was false or a misrepresentation?

A. No.

Q. Excuse me?

A. No.

Q. Have you ever been part of like a conspiracy for like major Wall Street people to defraud people through the use of e-mails?

MR. JANGHORBANI: I will object to the question. One, conspiracy calls for a legal

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conclusion. Two, major Wall Street people? I don't really know what that means. And it is cumulative of the questions he has already asked.

JUDGE FOELAK: I will overrule your objection. He can go ahead and answer.

A. No.

Q. You mentioned in the e-mails to these two different people it was at the -- I believe it was at the recommendation or at the request of Gregg Lorenzo that you were sending these e-mails out. Is that correct?

A. That is correct.

Q. Did he pay you to send these out or give us some of the flavor as to -- let's say on October 14, 2009, do you recall that day?

A. Briefly, yes.

Q. Where were you living at the time?

A. I think by then I gave up Mike Molinaro's apartment and was living in Westwood, New Jersey.

Q. How did you get to work?

A. I'd drive.

Q. Excuse me?

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A. Sometimes I'd drive, sometimes I'd take the bus.

Q. So you'd drive to work that day. Where were your offices that day?

A. 100 Williams Street.

Q. When you got to the office can you describe, if you can, what happened at the office that morning?

A. Probably -- you know, I don't recall anything specific. A typical day at Charles Vista. There is a morning meeting, I believe at 8:30 or 9 o'clock led by Gregg Lorenzo. If Michael Molinaro had any compliance news he would speak at the morning meeting.

Kind of a motivational meeting in the morning. And then -- you know, I was asked to send out these two e-mails. So Gregg gave me --

Q. Well, wait a second. These were sent out at 3:37 p.m., so let's go before that. At this meeting that you had, who was at this meeting?

A. All the brokers.

Q. Was there any discussion that you were going to be called upon to send out at Gregg

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Lorenzo's request --

MR. JANGHORBANI: Objection.

Q. -- e-mails to certain people?

MR. JANGHORBANI: He is leading the witness.

JUDGE FOELAK: You really shouldn't be leading the witness. He is your own client.

Let me ask you, where does the 3:37 come from? Is it written on the thing or is it in Greenwich mean time or --

MR. HANTMAN: It is on the e-mail.

JUDGE FOELAK: Okay. Thank you.

Q. At this meeting was the subject matter of these two e-mails discussed at all?

A. I don't recall these two e-mails being discussed in the morning meeting.

Q. Were they discussed at any time prior to 3:37 p.m. with you and anybody else?

A. Not that I recall.

Q. With respect to these two individuals, had you ever met W.S. Rothe?

A. No.

Q. Do you know who that person is?

A. Now I do.

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Q. Well, then did you know?

A. No. I assumed he was a client of Gregg Lorenzo's.

Q. Had you ever spoken to him?

A. No.

Q. Had you ever looked at any of his private placement memorandum?

A. No.

Q. Did you know how much money he had?

A. No.

Q. And the other person that got the e-mail, did you know who that person was?

A. If it is the same guy, I remember him a couple of months ago because Gregg Lorenzo wanted to open up a branch office in Central America, and I believe this guy came from Central America. So I met him for, I think, a meeting to talk about that.

Q. Were you friends with either of these people? Were you friends with them?

A. With the guy from Central America?

Q. Yes.

A. No.

Q. Or Rothe?

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A. No.

Q. Had you ever socialized with them?

A. No.

Q. Did either of them look at you as somebody who they relied upon for your advice?

MR. JANGHORBANI: Objection. Two counts. One, now he is asking the witness to testify what was in the head of Mr. Rothe and Mr. Goolcharan, if they viewed him as someone to rely on, so it is objectionable on that front.

Two, as the Court has reminded respondent, reliance is not an element of a Commission action.

JUDGE FOELAK: Yes. Your objection is sustained.

Q. As I understand it, the government's position is that these fraudulent statements were sent out ostensibly so these people would make an investment.

MR. JANGHORBANI: Objection. Once again he is leading or at a minimum he is editorializing. There is no question in here.

JUDGE FOELAK: True.

Q. Well, when Gregg Lorenzo asked you to

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send these out, did he indicate to you why he wanted these sent out?

MR. JANGHORBANI: Objection. Lack of foundation that Mr. Gregg Lorenzo asked Francis Lorenzo to send out the e-mail.

JUDGE FOELAK: Yes. It seems to me the witness testified that there was no discussion before sending out the e-mail.

Q. But did he ask you to send this out?

A. Yes.

Q. And did you ask him why?

A. I don't -- I don't remember if I -- I remember getting -- getting the e-mail addresses from him and then cut and pasting this -- this thing and sent it.

Q. Before you sent it out, did you study it in depth?

A. No.

MR. JANGHORBANI: Again, objection. He is leading his witness.

MR. HANTMAN: That is yes or no, did you study it in depth?

MR. JANGHORBANI: It suggests the answer.

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JUDGE FOELAK: It does suggest. Anyway, go ahead and answer.

A. What was the question?

Q. Can you describe, when Gregg Lorenzo asked you to send these out, okay, what, if anything, did you do before you sent it out?

A. What, if anything, did I do before I sent it out? Unfortunately, not much. I just -- I sent it out.

Q. Approximately how much time transpired between the time he told you to send these out and the time you sent it out?

A. Right away.

Q. A minute? Two minutes?

A. As soon as -- you know, he gave me the e-mail address, I typed it into the "to" column and cut and pasted this -- the content and sent it out.

Q. Did you do it in a rush, or did you like take your time?

A. Like any other e-mail. You know, I know now based on what the content of the e-mail is and what happened here that I should have never sent the e-mail out, but, you know,

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obviously -- you know, I don't want to minimize the severity of it but, you know, I just didn't give it much thought at the time. My boss asked me to send these e-mails out and I sent them out.

Q. And after you sent them out, did you have any meeting with anyone in which you discussed -- had any discussions concerning these e-mails?

A. No.

Q. Later in the day, did you check your e-mails to see whether these people got back to you and said "Frank, thanks for this information"?

MR. JANGHORBANI: Objection. He is leading his witness again.

JUDGE FOELAK: It seems like just moving the story along to a certain extent.

Q. You can answer.

JUDGE FOELAK: You can answer.

A. I check my in-box all the time. I didn't see anything from them but I wasn't specifically looking for a response from them.

Q. When you didn't get a response from

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either one of them, did you follow up?

A. No. It wasn't my place to follow up.

Q. Why didn't you follow up?

A. They weren't my clients.

Q. Well, when a week or two went by, were you curious why they didn't respond to you?

A. I figured their registered rep was handling it. The people they were speaking to at Charles Vista.

Q. Who was the rep of either one of them if you recall?

A. Either Adam Spiro or Gregg Lorenzo.

Q. Did you have any discussions with them concerning whether these two recipients of these e-mails had gotten back to anybody?

A. None that I can recall.

Q. Subsequent to sending out these e-mails, did anyone ever approach you, ever approach you to discuss whether or not these people had responded?

A. There was no – no discussion other than – other than him asking me to send these e-mails out?

Q. When was the first time that the

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subject matter of these two e-mails came up?

A. When I testified.

Q. Excuse me?

A. When I testified with the SEC.

Q. When you say you testified before the SEC, maybe give us some background there. When did you first testify for the SEC?

A. I don't remember. I don't have the dates memorized.

JUDGE FOELAK: Let the record reflect that the witness has reached for a volume entitled "Testimony transcripts" that contains a number of tabs.

A. 11/12/2009 was the first testimony.

Q. And do you know what the caption of that matter was?

A. Mercer Capital.

JUDGE FOELAK: The witness is reading from the front page of that testimony.

Q. What exhibit is that? Is that an exhibit?

A. It is testimony transcripts.

Q. Do you know what the nature of that proceeding was about?

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A. Mercer Capital.

Q. Did the SEC call you, or did you call them?

A. They sent me a letter, I believe.

Q. Do you recall what the letter said?

A. "You are required to testify."

Q. And did you have any idea at the time it was to testify about these two e-mails?

A. No.

Q. The date of that was when?

A. 11/2009. 11/12/2009. That was the first one.

Q. Were you asked any questions about these two e-mails then?

A. I don't believe so, no.

Q. And did you have a lawyer then present?

A. Yes. I believe it was Dave Gann.

Q. Did you have any understanding what the nature of this proceeding was about?

A. Potential improprieties at Mercer Capital.

Yes, David Gann was my attorney then.

JUDGE FOELAK: Let the record reflect

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the witness was reading from the front page of the document.

Q. You say it had to do with an investigation of Mercer Capital. Did Mercer Capital have anything to do with W2E at that time?

A. Mercer Capital was the banker that did -- was the brokerage firm that did an equity round in 2007 or 2008.

Q. At that time you were working for Mercer Capital?

A. Yes.

Q. So you weren't even working for Charles Vista at the time?

A. There was no Charles Vista at the time.

Q. What was the second time --

MR. JANGHORBANI: Your Honor, I have to object. I believe that Mr. Hantman is asking the witness about the November 12, 2009 testimony transcript, in other words three weeks after Mr. Lorenzo sent this e-mail when he was working at

Charles Vista. He's already testified to that earlier so I think the record

[p.352]

needs to be clarified on that point.

JUDGE FOELAK: Mr. Hantman?

MR. HANTMAN: I am just asking him questions. If there is going to be some redirect that is fine.

Q. Does it refresh your memory that at the time you were working for Charles Vista?

A. In 2000 --

JUDGE FOELAK: Apparently the witness was testifying that at the time of the events in question at Mercer Capital, that was before Charles Vista had been formed. Is that correct, Mr. Lorenzo?

THE WITNESS: I believe that is correct, yes.

MR. HANTMAN: That is his testimony.

Q. Was there a second time you testified before the SEC?

A. Yes. 12/16/2009.

JUDGE FOELAK: Let the record reflect the witness again is reading from the transcript.

Q. What was the caption of that matter?

A. Mercer Capital.

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Q. Were you a respondent? Were you named in that caption?

A. No. It says witness, Frank Lorenzo.

Q. Were you asked questions then about these two e-mails in question if you recall?

A. I don't recall at this testimony, no.

Q. And did you have a lawyer present?

A. David Gann, yes.

Q. Was there a third time that you testified before the SEC?

A. Yes. On 3/18/2010.

Q. What was the nature of that proceeding?

A. Mercer Capital. And Marc Ross was my attorney.

Q. Were you a respondent in that action?

A. No –

MR. JANGHORBANI: Objection, your Honor. Lacks foundation. This is investigative testimony. There are no respondents.

JUDGE FOELAK: Good point. Again, the witness is reading from the cover page, and the cover page states file number and gives some investigative number and Mercer Capital, of

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course.

Q. Did you testify voluntarily at the time?

A. They sent me a letter, I showed up.

Q. And you cooperated?

A. To the best of my ability, yes.

Q. And you were forthright and honest with the SEC?

A. I believe I was.

Q. And did there come a fourth time that you were interviewed?

A. Yes.

Q. And when was that?

A. 7/26/2012.

Q. Did you have a lawyer present at that time?

A. No. I couldn't afford one at that time.

Q. Excuse me?

A. No. I. No. I couldn't. It was getting to be too much money to keep paying lawyers for this. Couldn't afford it at the time.

Q. So you went on your own?

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A. Yes.

Q. Did anybody prepare you for your testimony, go over the subject matter of the questions you would be asked?

A. No.

Q. Did anyone from the SEC suggest that you really should get a lawyer, it would be in your best interest?

MR. JANGHORBANI: Objection. First of all, it is hearsay what somebody else from the SEC said. Second of all, I am really not sure what the relevance is to the facts at issue in the case.

JUDGE FOELAK: Mr. --

MR. JANGHORBANI: It is also assuming facts not in evidence. In fact, the transcript says what it says, and it says the opposite of the suggestion that the question is drawing.

Q. At that point, when you were asked questions about these two e-mails, had you prepared -- had you prepared yourself beforehand to answer questions about these e-mails?

A. No.

Q. Had you done any preparation in

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anticipation of this fourth interview?

A. No.

Q. You were asked the question on page 138, between lines 18 and 25, you were asked "Can you tell

me whether you sent these e-mails, these two e-mails on those dates?"

Your response was "Yes, I sent them."

You were honest about having sent them, were you not?

A. Yes.

Q. Other than yourself, were there any other witnesses to you having sent these e-mails?

A. Not that I can recall.

Q. And at the time that you said you sent them, did you believe that you had done something wrong?

A. At the time? No. I missed it.

Q. And you were asked the question "Why did you send this individual this e-mail?" and your answer was, "I don't know."

MR. JANGHORBANI: Your Honor, at a minimum can Mr. Hantman direct us to a page? He appears to be reading from a transcript.

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MR. HANTMAN: It is page 138. Bear with me. I am sorry. It is page 139, line Number 13.

Q. You were asked the question "Why did you send this individual this e-mail, referring to the person in the Caribbean?

Do you see that?

A. Yes.

Q. And your answer was "I don't know."

A. I see that.

MR. JANGHORBANI: Your Honor, first of all, I am not sure where Mr. Hantman is going simply reading the transcript back to his client. But if he is going to do that he needs to read it accurately. The answer is "I don't know. It is obvious I sent it."

MR. HANTMAN: Well, I am not finished, your Honor.

JUDGE FOELAK: Keep reading, then. Well, you don't have to, I guess, now that it has been read by Mr. Janghorbani.

Q. Then your answer was "I don't know." Right?

A. Correct.

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Q. You are referring to that you don't know why you sent it?

A. "Why did you send this individual this e-mail?"

"I don't know. It is obvious that I sent it."

Q. You are saying it is obvious that you sent it but it doesn't explain whether you knew why you sent it or not?

MR. JANGHORBANI: Once again, your Honor, Mr. Hantman is leading. He is dictating to the witness what his responses should be. If he has open-ended questions to ask in a direct fashion he needs to ask those questions. I object to this.

Q. After you said "I don't know" you said, "It's obvious I sent it."

What was obvious?

A. That I sent this -- this guy from the Caribbean an e-mail on behalf of Gregg Lorenzo.

Q. Then you were asked the question, on page 141 -- let me forget that a second, okay? Let's go into this other question.

You were asked the question "At the

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time did you know these statements were inaccurate and misleading?" Do you recall that?

MR. JANGHORBANI: Can we get a page number, your Honor?

MR. HANTMAN: I won't even refer to that.

Q. Do you recall whether you were asked the question whether these e-mails were misleading and inaccurate?

A. Yes.

MR. JANGHORBANI: Once again, if all he is doing is asking do you recall a very specific thing, it is a leading question. If he is going to direct us to something he needs to direct us to something. I object to the framing of the question without a transcript cite.

JUDGE FOELAK: Mr. Hantman, you are sort of like reading from the transcript. Does it matter whether he recalls now whether he said that? Maybe

just speed it up by referring us to the transcript if you want to.

MR. HANTMAN: I will get back to that, your Honor.

Q. Now, Mr. Lorenzo, I refer you to

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Defendant's Exhibit 65 if you take a look at the book a second.

JUDGE FOELAK: Division Exhibit 65?

MR. HANTMAN: Yes. It is in the book as Defendant's Exhibit 65.

JUDGE FOELAK: 65, which is in evidence.

MR. KAUFMAN: We'll put it on the screen.

A. Yes, I got it.

Q. This appears to be a list of all the debenture holders. Is that correct?

A. That's correct.

Q. And these are people who had already put -- had already, you know, put money into W2Energy. Is that correct?

A. That's correct.

JUDGE FOELAK: Wait a minute, Mr. Hantman. Let me ask you to ask him a clarifying question. What do you mean by "already put money in?" Existing equity holders or what?

MR. HANTMAN: Good point, your Honor.

Q. Maybe you can explain, on the second

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page, starting with Gary Ash, do you see that at the top?

A. Got it.

Q. It says "Noteholders," does it not?

A. Correct.

Q. What does that refer to?

MR. JANGHORBANI: I am going to object to this, your Honor. Lack of foundation. He is not on this e-mail. He didn't write it, there is no basis -- he hasn't said he's ever seen it before. He can't know what this means.

JUDGE FOELAK: Where are you going with this, Mr. Hantman?

Q. Well, have you ever seen this before, this list?

A. Yeah, when I reviewed the evidence.

MR. JANGHORBANI: So he's seen it after the fact. He has no personal knowledge about what this list means. If Mr. Hantman wants to make an argument from it, he can do that on his closing.

JUDGE FOELAK: Well, let's see where Mr. Hantman is going with it.

MR. JANGHORBANI: Thank you, your

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Honor.

Q. Well, at the time you sent out these two e-mails to these two individuals, were you aware of other people who had already had notes in W2Energy?

A. Yes, of course.

Q. And did you send any of these e-mails to any of these other people?

A. No.

Q. When I say "other people," people who had already made investments or had purchased notes in the company. Correct?

A. Correct.

Q. Is there any reason why, with people who had already shown a commitment to this company, why didn't you send them this e-mail?

MR. JANGHORBANI: Objection. I don't -- vague.

JUDGE FOELAK: Well, maybe he knows -- maybe it is not vague.

MR. KAUFMAN: Is the suggestion that Mr. Goolcharan had already invested at the time the October 14th e-mail was sent out? Because that is contrary to the record.

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MR. HANTMAN: That is not the question.

JUDGE FOELAK: Just one attorney, please.

Q. The question is, at the time that you sent these e-mails out, were you aware of people who had already made some equity or invested money in W2Energy?

A. Yes, I was.

Q. Is there any reason why you did not send e-mails to any of these other people?

JUDGE FOELAK: Let the record reflect that the witness is sort of gesturing in a "who knows" fashion.

A. I don't know why I would. These aren't my clients. I hardly spoke to any of them. Never solicited or presented Waste Energy to any of these people.

By being at Charles Vista I started recognizing some of their names as a noteholder. But having a relationship or a dialogue or an interaction with any of them, it was all for updates or after the fact, after they made their investment.

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Q. But when you were at Charles Vista, did you have e-mail addresses of these different noteholders?

A. No. Well, some of them I did, but -- no. I mean, why would I? I didn't know their e-mail addresses.

Q. Well, is there any reason why you couldn't have -- since you had this letter, any reason why you couldn't have just sent this e-mail to like 500 people?

A. Well, now, this letter is the center of my universe but at the time I really didn't pay too much attention to these e-mails. This whole -- this whole thing is about five minutes of my career, these two e-mails, if that.

There was no follow-up afterwards and there was no real attention to it beforehand. Bottom line is that I skimmed the filings and I missed the write-off

and I made a mistake and sent these e-mails out at the request of my superior.

So -- so to answer your question, at the time, not really being all this focused on this big e-mail and the content within the

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e-mail, I didn't give it a second thought of why I should or shouldn't send it to this list. I simply was asked to send the e-mail out and, unfortunately, because I didn't focus in on the write-down in the filings, I inadvertently sent it out at the request of my superiors.

That is about the extent of this whole e-mail. I feel horrible that I made the mistake. I feel bad that the gentleman lost 15,000 that put it in in December. I am grateful the other guy did not invest. But the fact of the matter is -- and I am embarrassed that I missed it after all this time on Wall Street that I missed it.

I welcome the opportunity to explain the situations that started in July with this whole write-down because there is a reason why I missed it, and that is all this was was an inadvertent mistake on a write-down of an asset that wasn't emphasized by the company.

Q. So is it fair to say you didn't have any congratulatory party following the issuance of these e-mails?

MR. JANGHORBANI: Leading.

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A. Congratulatory party?

MR. JANGHORBANI: There is an objection standing.

JUDGE FOELAK: I didn't actually hear Mr. Hantman's question. I heard the word "congratulatory" but that was about it.

MR. JANGHORBANI: I guess the court reporter can read it back if your Honor would like.

(Record read.)

A. No. There wasn't a party, if I am allowed to answer that.

Q. As you sit here today, are you sorry that these e-mails went out?

A. Absolutely. I have no history of this.

Q. Have you ever indicated to somebody that you are proud that you sent these out?

A. This e-mail was -- was erased from my memory two seconds after I sent it. I didn't really think about it one way or another. Unfortunately, I hit the send button and it's caused me a lot of grief.

But, you know, I mean I made a mistake

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and I am willing to admit the mistake but there is a good reason why I made this mistake.

Q. Well, I don't want to put words in your mouth so perhaps if you can explain the circumstances leading up to the October 1st -- to the October e-mails in

regards to W2E, Charles Vista and the debenture offering?

A. I welcome the opportunity.

Q. Well, that is not what I am asking you --

A. Yes, I would -- can I explain?

Q. Yes, of course.

A. So, Craig Brown and Waste2Energy originally met their accountants in July and in July is when the asset was beginning to be impaired. That is the event, that is the material event.

MR. JANGHORBANI: Your Honor, I am going to move to strike this. There is no foundation for him to know any of that. He hasn't testified that he met with anybody --

JUDGE FOELAK: Okay. Counsel, he is explaining his mental reasoning process, which may have been based on false assumptions but

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that is what I understand he is doing.

THE WITNESS: Thank you.

MR. HANTMAN: Exactly.

MR. JANGHORBANI: But he hasn't laid a foundation for that, your Honor. He hasn't said he spoke to anyone or anyone told them anything.

THE WITNESS: Let me finish, please.

JUDGE FOELAK: Please continue.

THE WITNESS: Waste2Energy, although it is not a piece of evidence, it is not admitted at evidence their investment banking agreement says they would report immediately to Charles Vista when they become aware -- when they become aware of any potential financial change.

And also, they became aware of a potential write-down of 95 percent of their assets in July.

Q. How do you know that?

A. Because Craig Brown said it yesterday.

Q. Okay.

A. In July. Okay?

Q. Go on.

A. Now, the material disclosure is in

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July, when they became aware of the potential write-down of their entire asset base, not in October, number one.

Number two, in order to protect the investment they were still taking money from short-term notes knowing full well that 95 percent of their asset has been compromised and they did not amend their offering documents to reflect that material event. They did not voluntarily disclose it to their investors, and they took money in July, August and September without disclosing a potential write-down.

Number two, they immediately, the second they found out that there was a potential write-down from

their auditors they should have sent an e-mail to Charles Vista calling an emergency meeting to discuss the implications of 95 percent of their asset base being obliterated. They did none of that. None.

There is no documented e-mails or presentations or formal disclosures that this company may have lost 95 percent of their asset base. In fact, the first time they disclosed it was in October. Okay? Yet they continued to

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take countless of hundreds of thousands dollars in July, August and September without disclosing a potential write-down of their asset base number one.

Number two, the reason why I missed this asset is because this needed to be emphasized, emphasized, not minimized and not hidden in a regulatory document. There is no disclosures anywhere, anywhere that this asset may have been written off to 95 percent. None. Zero.

JUDGE FOELAK: Let me just gain a – okay. So sort of to summarize what you have testified is you did not know about the write-down until October and it was, in your mind, hidden somewhere, the disclosure, when it was made?

THE WITNESS: That is accurate. And lastly, the reason why I missed it and it was an unintentional mistake, which is the end of my little spiel, is I didn't -- my mistake is I didn't scrutinize the filings because I did not -- I wasn't led to believe that there were any dramatic changes in these filings.

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And it is my mistake, okay? I thought that if the company was going to write down 95 percent of the assets, that we would have known about it long before the October 1st filing.

The CFO of this company and the other people were experienced guys. They know that these debentures were relied upon this asset base. They knew the importance of this write-down and yet they did not voluntarily disclose it anywhere.

And this deserves more than a phone call. I don't recall any phone calls. And this deserved a Sermon on the Mount meeting to disclose not only their existing noteholders, not only the people that were thinking about buying stock from the marketplace. That is why the 8-K came out, the people that had to buy stock from the street.

Most importantly, they needed to amend their PPM to take on the notes that they were raising money in July, August and September. Think about it. If I invested in July or August I had no idea that this asset was going to be

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compromised. None. And yet I am the guy sitting here on two e-mails. Meanwhile, a whole bunch of Americans and other investing public invested a ton of money into Waste Energy without full disclosure of a potential write-down.

JUDGE FOELAK: Again to summarize, the disclosure in your mind was not illuminated enough?

THE WITNESS: Absolutely. And furthermore, it was not disclosed when it should have been disclosed. Needed to be disclosed when they became aware of it in July, not when -- when they disclosed it, it was too late. It was after the fact. A whole bunch of people already invested.

And that's why I missed the e-mail. I am man enough to say -- I am not going to sit here and say I didn't make a mistake. I made the mistake, I sent the e-mails. I shouldn't have sent them out.

If I scrutinized that filing because it was highlighted and brought to my attention like it should have been -- 95 percent of the

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company's asset base is gone. It should have been discussed. It shouldn't have been just stuck in an e-mail, "Well, hopefully you will catch it." It should have been highlighted, emphasized and discussed on behalf of the investors.

Now, it is my mistake. I missed it. I didn't scrutinize it. This was an unintentional miscue. Now I am paying the price for that mistake. But if anyone says that I maliciously, intentionally, premeditatively sent out e-mails with the intent to defraud, that is a complete falsehood. There is no getting around that statement.

I apologize I sent the e-mail out. It was wrong. I am embarrassed that I missed it. But intentionally defraud anybody? Absolutely not.

Q. I notice Mr. Benkovsky's name is here as a noteholder. Do you know who that is?

A. Stevie B.

Q. That is what he was referred to as?

A. Yes.

Q. Was he a client of Charles Vista?

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A. Yes.

Q. Were you familiar with his $2 million investment?

A. Absolutely.

Q. Do you know when he made this investment?

A. I believe the actual wire was sent to escrow the end of August, maybe early September, give or take.

Q. Do you know whether W2Energy ever notified him at that time in August that they had already been working on working papers to write off this $11 million asset?

A. I don't believe they disclosed it to anybody prior to October 1st.

Q. You heard Mr. -- I think Mr. Brown's testimony. Were you ever aware that the money that was being raised by Charles Vista was going to be used by W2Energy not to enhance the business but to pay off previous bills?

MR. JANGHORBANI: He is leading again, your Honor.

MR. HANTMAN: Okay.

Q. Were you present when Mr. Brown

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testified that certain monies were used to pay off accountants? Yes or no?

A. Yes, I was here.

Q. Were you here when Mr. Brown testified monies were used to pay lawyers?

A. Absolutely.

Q. Were you here when Mr. Brown testified that money was used to pay auditors?

A. Correct. I was here.

Q. When Charles Vista took Mr. Benkovsky's money, did you have any knowledge of how W2Energy was going to use his money?

A. My knowledge is that they were going to repay angry noteholders. Angry ones that were in default.

Q. That was your understanding?

A. As well as some back salaries, professional fees and -- if memory serves me -- I could be wrong but I think -- I think a piece of Mr. Benkovsky's money was going to engineering specs on one of their letters of intent. But that may not have been Steve's money. That may have been the prior money.

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But Peter Bohan talked about that they needed a good faith deposit for engineering in order to begin the engineering of some of these units.

Q. Now, can you explain the subscription investing process in the W2E debentures?

A. Sure. In order to subscribe to a private placement at Charles Vista the investor had to be first deemed to be accredited before they even received any information, and they also needed -- you couldn't have a new account to purchase private placements.

So the registered rep -- the registered representative would have to ask a questionnaire, a Regulation D questionnaire and then get that reviewed by Michael Molinaro in order for -- and filed properly for FINRA in order to determine that the investor was accredited and suitable for the investment.

And then once Mr. Molinaro reviewed it and approved it, then the broker would then send subscription documents and offering documents to the investor, which were numbered.

And then the investor would then, you

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know, have the opportunity to ask questions and -- to the registered rep and then would have to fill out the purchasing questionnaire and the subscription documents further attesting that they are accredited.

Q. Now, do you know whether this was done by either of the two people who received e-mails from you?

A. From me?

Q. Yes.

A. I didn't do any of this for them.

Q. And in the e-mails to both these individuals it says, "Please read the offering memorandum including all risk factors." Do you know if they even had the offering memorandum?

A. No. I wouldn't know.

Q. Did you ever send them the offering memorandum?

A. No, I didn't.

Q. Subsequently, do you know if anybody ever sent them an offering memorandum?

A. Well, based on the information that I know now it is obvious that the guy who put in – Goolcharan, the guy that invested in

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December, by default, had to receive an offering memorandum from somebody.

Q. Did you send it to him?

A. No.

Q. Do you know who did?

A. His broker.

Q. Do you know who?

A. I think it was Gregg Lorenzo. Could have been Adam. I don't recall.

Q. Did you ever solicit Waste2Energy debentures to investors?

A. No.

Q. And why not?

A. I wasn't very good at it, first of all. And second of all, it wasn't the role of a broker. I didn't get on the phone -- I didn't have any retail clients, I managed no accounts, never received any commissions, nor was I a joint rep on any of the investors -- on any client of Charles Vista.

Q. So then were these two e-mails part of like a new endeavor by you to go after retail clients?

A. No. They were Adam and Gregg's

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clients. They weren't my clients.

Q. Was this something you had studied for, how to solicit people through e-mails? Is this something that you studied for?

A. No. No.

Q. Did you ever prepare any Regulation D questions for any deals at Charles Vista?

A. No. That was a function of compliance.

Q. Now, are you the registered representative for any accounts at Charles Vista?

A. No, I wasn't.

Q. Were there people at Charles Vista who were registered?

A. Yes. The brokers.

Q. How many brokers were there at Charles Vista at that time?

A. It varied. Anywhere from 15 to 25 or maybe 10 to 25 over the 9 or 10 or 11 months I was there.

Q. How many?

A. Between 10 and 25 I think would be a good estimate.

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Q. Well, on October 14, 2009, how many brokers worked at Charles Vista?

A. I don't recall exactly.

Q. On the day in question, were there brokers in the office on that day?

A. Yes.

Q. Do you know why you, out of all the people -- you are not a registered representative for any of these people, you are not involved in retail sales, that is not your background.

Do you know why you were chosen or asked by Mr. Lorenzo to send out these e-mails?

MR. JANGHORBANI: Objection. One, leading. Two, lacks foundation. He doesn't know what is in

Gregg Lorenzo's head and he already testified he didn't have any conversations about this e-mail.

JUDGE FOELAK: He did testify he had no conversations. I mean I suppose he could state what his opinion was.

Q. Well, you had no conversation but you were told to -- well, did you send this out on your own? Did you wake up and decide "I am

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going to send this to two people I don't know, have never met and have nothing to do with"?

MR. JANGHORBANI: Objection. Leading.

A. No.

JUDGE FOELAK: Your objection is sustained.

Q. So you sent this out because Gregg Lorenzo told you to send it out but you had no discussions over the substance of what you were sending out?

MR. JANGHORBANI: Objection. Leading.

JUDGE FOELAK: Sustained.

Q. What did Gregg Lorenzo exactly tell to you do?

A. He told me to send --

MR. JANGHORBANI: Objection. Foundation.

Q. Over here it says, "Dear sir: At the request of Gregg Lorenzo." What did you mean by that?

A. Gregg Lorenzo asked me to send that out.

Q. What did he say to you?

A. "Frank, I want this come from our

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investment banking division. Can you send this out for me?" Something like that.

Q. What, if anything, did you say to him?

A. "Sure." The guy owns the firm. He just asked me to send out an e-mail for him. I am going to tell him no?

Q. Did you ask him why?

A. He said -- he asked that -- he said, "I want this to come from the investment banking division."

Q. Was that customary, that the banking division --

A. No.

Q. -- would send out this type of e-mail?

A. No.

Q. Did you find it unusual?

A. Well, in hindsight I find the whole thing unusual, but at the time, you know, at the risk of sounding redundant, this whole thing took about 15 seconds of my day at the time.

So, you know, if I knew that this was going to be -- forgive me for laughing. I don't want to minimize the severity of this, but if I knew that this was going to be the repercussions

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of sending out these e-mails, I would have -- you know, I would have paid attention, I would have questioned, I would have done a whole bunch of things. And at the end of it all, I wouldn't have sent it.

Q. Now, in October of 2009, can you describe the atmosphere at Charles Vista?

A. Yeah. It was a very typical -- for lack of a better word I will use the word "boiler room." It was a small boiler room. You know, a bunch of young guys standing up overcoming objections and pitching stock.

You know, there was -- you know, I have seen this. Over the years I have seen this, you know, young guys fighting and arguing and, you know, and yelling and screaming. I shut my door most of the time but that was kind of the atmosphere of Charles Vista.

The confrontational issues I had at Charles Vista was mostly between Peter Bohan and Gregg Lorenzo, which was whenever there was an escrow close Gregg wanted -- Waste2Energy would end up with 70 percent, 70 percent of every dollar. 12 percent went into a sinking fund,

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18 percent went into for fees, brokerage fees. That was 70¢ of every dollar went to Waste2Energy. And there was always -- there was always tension and yelling and screaming on what to do with the 70¢.

Peter Bohan needed it to fund operations of the company properly and Gregg Lorenzo needed it to repay angry noteholders whose notes are in default.

So I spent a lot of my time playing referee between Gregg Lorenzo and Peter Bohan.

Q. You mentioned there were a lot of young guys who were out there trying to raise money for different -- for Charles Vista. Were you one of those young guys?

A. No.

Q. Can you describe your physical health in or about October 2009?

A. Well, I started having health problems when I worked at John Thomas Financial because --

Q. I am sorry. October 14th, to be more exact. Can you describe your mental condition, physical condition at that time?

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A. Well, mentally and physically in October? Well, you know, I had two surgeries and a blood clot late 2008, early 2009 which -- you know, because of my shoulder and knee surgery I was under -- I had pain medication and I had a blood thinner at the time. So, you know, that was -- I wasn't doing bad health-wise but I wasn't a hundred percent either.

Q. Are you married or you are single?

A. I am single.

Q. Do you have any dependents, anybody you support?

A. My mom. My mom is a widow.

Q. How old is she?

A. 78. Now she is 78.

Q. And you take care of her?

A. Yes, me and my three other brothers and sisters. We financially help mom out.

Just if I may -- you know, towards October, you know, it is -- I was kind of losing Sera. Sera wanted to leave. She wasn't happy. And financially this wasn't working out for me. At that time, even though I didn't leave in October or November, you know, it was that time

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when I started, you know, looking around for a different place to work.

Q. Now, with some of the people who had invested in W2E, did you ever do anything to try to get them to help recover any money?

A. Yeah. There was a lot of -- after I left Charles Vista there was a lot of clients, they didn't want to speak to Gregg anymore, so he would toss them to me after they made their money or the company couldn't repay their defaulted notes and they just didn't want to speak to him anymore. So he would ask me to speak to them.

And, you know, I would tell them, "The company doesn't have the money to repay you." Anyhow, the point being that I started having some dialogue and relationships with these guys, probably about 15 to 20 Waste2Energy investors, both in the equity and the debenture round.

And there was one guy, Steve Pesci from Elizabeth Truck Center, who him and his friend were some of the biggest investors in Waste2Energy. I think they put in, you know, close to a million dollars of the $6 million

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that they did in Mercer.

So anyhow, he was upset and he felt -- he felt taken advantage of so he asked me, "Frank, how can me and my people try and get my money back?"

This happened in -- after the -- after the Waste2Energy was put into involuntary bankruptcy in March or February of 2013 -- or '12. Anyhow, the e-mails say. I think it was '12.

At any rate, I mentioned to Steve, I said, "Steve, look --" I got to know a few of these debentures holders, about 15. "My suggestion is this, you form a group and you try and get some relief as a group from either Waste2Energy or Charles Vista."

I did this – I didn't charge him money to help. I just made the introduction. Steve Pesci then agreed to organize and lead the group. It was maybe 15, 20 from people I referred him to, plus 10. So it turned out to be anywhere from 25 to 30 investors that lost their money. I made the introductions between the

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investor and Steve Pesci that they were both Waste2Energy shareholders and they both suffered losses and I would suggest that you coordinate a group so you can come together in unison to seek any

remedies or collect or so you can get some of your money back.

Q. Was this part of your responsibilities, official responsibilities or duties at Charles Vista?

A. No. I did this after Charles Vista.

Q. At the time that you did that, was that in anticipation that you, yourself, were going to be a target of the SEC?

MR. JANGHORBANI: Objection. Leading.

JUDGE FOELAK: That is –

Q. What was your motive for helping the investors to try to get back their money?

A. Well, believe it or not, I felt bad that they lost all their money, okay? They lost their money. You know, like my testimony said, this was a high risk investment and after getting to speak to some of these investors they weren't disclosed how risky this investment was. This belonged in the risk-oriented

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side of investors' portfolio. If a guy has -- out of 100 percent he should be putting 2 and a half to 5 percent of his investment capital into these deals. These brokers were putting 70, 80 percent of the guy's investment capital into Waste2Energy.

Then when I would talk to the guys, one guy was talked into liquidating his retirement account. One guy was talked into getting -- taking a loan against his business in order to invest in Waste2Energy debentures. One guy took a mortgage on his house

because he was guaranteed or he was led to believe that he was going to be repaid by one of these young brokers.

So here, I get these guys on the phone. One guy almost lost his wife. One guy had to mortgage his house in order to repay the business loan. The other guy blew his retirement account. And I am hearing what they were told. So naturally, here comes -- naturally, you know, despite what anyone may think, I actually felt bad for these guys. I figured it was a long shot for them to try to

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recoup any of their money because, you know, Charles Vista didn't have any money and Waste2Energy was in bankruptcy.

So although it was a long shot, I didn't feel confident -- and I told them, "This is a long shot in order to get money from Waste2Energy."

Q. Do you know why these people called you?

A. I called them. Well, I originally started relationships with them because they got sick of talking with Gregg Lorenzo so they found -- Mike Robbins, Steve Pesci, Dan Casey, a whole slew of them. Marvin Givetts. All these big investors in Waste2Energy.

Because they kept on -- because they didn't want to talk to Gregg anymore, they had to talk to somebody. I talked to them.

Q. But you weren't the registered representative for these people, were you?

A. No.

Q. They were talking to you because they got tired of hearing Gregg Lorenzo's fake information, for lack of a better word?

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MR. JANGHORBANI: Objection, your Honor. Lack of foundation. In fact, I move to strike his last response. He is testifying about other people's motivations. He hasn't laid any foundation for how he knows that.

JUDGE FOELAK: Yes. Sustained.

Q. Did anyone you speak to ever indicate to you why they were calling you?

A. Yes.

Q. What did they say?

MR. JANGHORBANI: Objection. It is hearsay.

JUDGE FOELAK: Wait a minute. You can answer. He is going to explain his understanding of why they were calling him and not somebody else.

A. They were calling because their defaulted notes weren't getting repaid like they were led to believe and they no longer trusted what was coming out of the broker's mouth.

Q. But they trusted you?

MR. JANGHORBANI: Objection. Objection.

Q. Did they indicate they trusted you?

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MR. JANGHORBANI: Objection. It is hearsay. He is putting this in for the truth of the fact that other people trusted him. It is classic hearsay. If he wants to call one of these people he could have done that when his witness list was due.

JUDGE FOELAK: Of course, hearsay is not forbidden in our proceedings. But I guess you are asking for his understanding of their motivation, not really knowing what the motivation really might have been.

Q. What was your understanding as to why they called you, on what facts?

A. To get -- to find out if their notes were going to get repaid and what...

Q. The government's exhibit Division Exhibit Number 19 --

JUDGE FOELAK: Which is in evidence?

MR. HANTMAN: Yes.

Q. How much time, if any, did you spend studying this?

MR. JANGHORBANI: Objection. Leading.

MR. HANTMAN: I am asking how much time, if any, he spent is not leading.

[p.393]

MR. JANGHORBANI: How much time he spent "studying this."

JUDGE FOELAK: Objection overruled. You can answer.

A. I didn't study it. This was all...

Q. Did anybody call you with respect to the subject matter of this document?

A. I don't recall. I just don't recall having any -- any real conversations about the content of this with anybody. I mean, we may have -- you know, now that I have seen it a million times, my point of view is a little different. At the time -- I mean -- there is just no way that I read this and understood the implications and then would send out an e-mail to those two investors.

So, you know, I probably overlooked it. I just don't see how I...

Q. Did you attend any meetings with respect to the subject matter of this document?

A. No, there were no meetings on it.

Q. Do you have any memos in your file from anybody with respect to the substance of this document?

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MR. JANGHORBANI: Objection. Foundation. He has testified that he didn't talk about it to anyone and didn't attend any meetings.

JUDGE FOELAK: Your objection is sustained. And this e-mail is pretty summary. You don't have to dig down deeply into many, many pages to find out the crucial information about the 11 million.

Q. So you had no follow-up conversations on this?

A. None that I can recall.

Q. On Division Exhibit Number 30, were there any meetings in which the subject matter of this e-mail was discussed?

A. Any meetings on the subject matter of this? There was conversation of the company trying to get a dual listing in Frankfurt briefly in case they never received a relisting but they said they didn't have the money to apply in Frankfurt. But this was briefly addressed. The delisting talked about on the back page was addressed. Not on the page that is up here but the back page.

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Q. In October 2009, did you ever have any argument with Mr. Lorenzo, Gregg Lorenzo?

A. We had arguments at least once a day.

Q. What were these arguments over?

A. Well, I told him that this is not -- that this -- I don't know exactly what I said but what I did tell him is it is just a matter how long the fuse was lit before this bomb goes off. You have debentures going into default while you are raising additional money and taking on additional notes.

It didn't set out as a convertible debt spiral but it has the same implications of a toxic convertible debt spiral. I told him, you are not raising enough money fast enough in order to alleviate debt and grow the company properly. This will explode.

I say it in here somewhere, this needs to be fixed. It needs to be fixed. It wasn't met with any -- it just wasn't taken seriously.

There was also another conversation which caused big, big problems, is I told him -- I suggested that you count how many accredited investors that the firm had. Okay? It came out

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to over 500. I said, "Rather than try to get ten people to put a million or 2 million into Waste2Energy you should recommend a 10 to $20,000 investment to the 500 people in case the deal goes bad you are not causing huge-- you are not hurting somebody."

But whenever I made suggestions to Gregg on how to raise money, you know, it was just never -- it wasn't well received.

MR. HANTMAN: Just a couple more questions.

JUDGE FOELAK: Okay.

MR. HANTMAN: Your Honor, may I take a five-minute recess?

JUDGE FOELAK: Okay. You want ten minutes?

MR. HANTMAN: Yes, your Honor.

JUDGE FOELAK: Very good.

(Recess.)

Q. Mr. Lorenzo, was it ever your intent when you sent these two e-mails out in question here, was it your

intent to deceive these two people who you never met and never knew?

A. No.

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Q. At the time you sent these e-mails out and you weren't a registered representative for these people, this was not even in the scope of your responsibilities --

MR. JANGHORBANI: Leading.

JUDGE FOELAK: Sustained.

MR. HANTMAN: I am just relying on what he testified. I can take what is part of the record --

JUDGE FOELAK: Okay, okay. It is true he testified that he was not the registered representative of these people or apparently of any people.

Q. You testified you didn't know these people.

A. That's right.

Q. You testified you had never spoken to these people?

A. Correct.

Q. You testified you never followed up with these people?

A. Correct.

Q. Was it your purpose to manipulate these people?

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MR. JANGHORBANI: Objection.

Q. Was it your purpose to manipulate them?

A. No.

Q. Was it your intent to defraud these people?

A. No.

Q. It appears that aside from Mr. Brown, the major witness against you for the government is you?

MR. JANGHORBANI: Objection. Leading. Maybe just editorializing.

JUDGE FOELAK: Basically, there is two witnesses – well, three witnesses.

Q. So aside from – well, the gist of the government's case against you is based upon essentially you?

MR. JANGHORBANI: Argumentative, your Honor. It is just argument.

MR. HANTMAN: That is the fact of the case.

Q. It is you –

JUDGE FOELAK: But it is not really something – I mean it is quite obvious that

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there were three witnesses and one was Mr. Brown and one was Mr. Lorenzo, who –

MR. HANTMAN: Okay.

Q. To the extent that the government is relying upon your testimony to find you responsible, did they prepare you for your testimony before this Court?

MR. JANGHORBANI: I would move to strike the first half of the question. It is just argument.

JUDGE FOELAK: Yes. The question is -- well, I mean that is ridiculous. They wouldn't prepare a respondent.

MR. HANTMAN: I think it is ridiculous but he is their main witness.

JUDGE FOELAK: It is a civil proceeding. You are allowed to call them.

THE WITNESS: It is obvious I am the main witness; yes.

MR. HANTMAN: I have no other questions, your Honor.

Oh, just one other question, if you would bear with me.

Q. Do you have any like secondary jobs

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other than working for Hunter Wise -- actually, with Hunter Wise, what do you exactly do with them at this point?

A. Find corporate -- corporate clients that need accredited financing institutionally or private equity clients or public companies that are listed and trading and operating on exchanges that need financing, or M and A clients or any buy side and sell side private companies that are looking to get bought out by the equity groups.

Q. In that capacity, how would you describe your job at the present time?

A. Well, I am working on a company, a public company that is doing $70 million in revenue, that is fully reporting, showing an 8 percent profit margin. I am a selected dealer. There is two other investment banks involved. The company has been public since 2007.

I am working on a Silicon Valley company doing 13 million in revenue called Tradescape that is looking for 4 million in private equity and I am beginning to start a

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real estate investment company with some private equity and hedge fund managers. So the investment is collateralized with the property.

Q. Do you have any source of income other than in the investment banking field?

A. No.

Q. Should the Court find by a preponderance of the evidence that you defrauded or manipulated these two individuals, do you have any other source to make any real money?

A. No. It would be tragically life-altering. I have been doing this -- this is the only career I have had.

Q. You understand the seriousness of what you are being charged with, do you not?

A. Absolutely.

Q. And you understand that depending on the discretion of the Court, naturally based upon the admissible evidence and the elements of proof, that the judge could disbar you for a period of time. Do you understand that?

MR. JANGHORBANI: Objection. Relevance.

MR. HANTMAN: I think this is

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relevant.

JUDGE FOELAK: I think he is trying to bring out the effect of a bar from the securities industry on his future income.

MR. HANTMAN: Even more so, your Honor.

Q. At the time that these two e-mails were sent out, were you aware at that time that if you violated certain security laws, particularly the ones you are accused of, that you could lose your livelihood, that you could have no money?

A. Of course I was aware of that. If you violate securities laws you can get disbarred.

Q. Did the thought ever occur to you that you would end up in the situation you are in now?

A. Absolutely not.

MR. HANTMAN: Thank you, your Honor.

JUDGE FOELAK: Okay.

REDIRECT/CROSS EXAMINATION

BY MR. JANGHORBANI:

Q. Now, Mr. Lorenzo, you testified that -- well, withdrawn.

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You testified that Gregg Lorenzo told you that he wanted you to send the deal points e-mail because he wanted it to come from the investment banking division. Do you recall?

A. That sounds familiar. Yes.

Q. Just a couple minutes ago you testified to that; right?

A. Yes.

Q. And you were the director of investment banking. Right?

A. That is correct.

Q. So you understood that Gregg Lorenzo was asking this to go out from your Division. Correct?

A. Yes.

Q. So it was your reputation on the line. Correct?

A. Yes, it was.

Q. And you understood that; correct?

A. Well, I understand it now.

Q. You didn't understand it at the time? When Mr. Gregg Lorenzo told you, "I want this to come from the

investment banking division" that he was saying this is your reputation this

[p.404]

e-mail is coming out under? You didn't understand that?

A. Like I mentioned in the past, I spent about ten minutes on this whole e-mail if that.

Q. So you didn't give it any thought at all?

A. No, unfortunately.

Q. Sent out an e-mail, didn't give it any thought at all?

A. Correct.

Q. You told Mr. Hantman, correct, that you worked at a boiler room. Right? Charles Vista was a boiler room? You just said that?

A. I said that -- I don't know if I called Charles Vista a boiler room but I said, for lack of a better word, I would call it a boiler room.

Q. So you knew you worked at a boiler room and you said that at least one investor sold their home to invest in Waste2Energy debentures?

A. I think one investor sold a mutual fund, one investor took a mortgage, a second mortgage out on their home. Another investor

[p.405]

took a line of credit.

Q. And one investor liquidated their retirement account to invest in debentures. Correct?

A. Correct.

Q. And you argued every day with Gregg Lorenzo. Correct?

A. Yes, I'd say that's correct, yes.

Q. So you said you started looking for a new job in October or November of 2009. Correct?

A. Correct.

Q. Because you wanted to leave. Correct?

A. Correct.

Q. Because you were unhappy at Charles Vista. Correct?

A. Yes. I was unhappy.

Q. You didn't tell the SEC any of this stuff, though, when you testified on November 12, 2009, did you?

A. November 12, 2009? I don't know if it was asked.

Q. Didn't tell it to the SEC, though, did you?

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A. Well, why would I when I wasn't asked?

Q. Why would you tell them the truth; right?

MR. HANTMAN: Your Honor, that is --

MR. JANGHORBANI: Withdrawn.

JUDGE FOELAK: Okay.

Q. Now, the private placement memorandum, Waste2Energy private placement memorandum, that disclosed that the debentures were a risky investment. Right?

A. Correct.

Q. But your deal points e-mail, that says "Don't worry about the risk, you are protected in these other three ways." Right? Is that what you were saying?

MR. HANTMAN: Your Honor, I think it has been asked and answered.

A. I also said refer to the risk factors.

Q. Okay. You said -- I apologize. I am going to mispronounce the name. Steve Pesky?

A. Pesci.

Q. That Steve Pesci worked with some other investors to try and get their money back. Is that right?

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A. Yes.

Q. In 2010?

A. I don't think it was 2010.

Q. When was it?

A. It is on my -- one of the exhibits. I think it is 2012.

Q. It was after you left Charles Vista. Correct?

A. Yes, correct.

Q. All right.

A. After the bankruptcy.

Q. And you said that you helped Mr. Pesci in some way. Correct?

A. I introduced him to other debentures holders.

Q. All right. But this was all after you left Charles Vista?

A. After. Yes.

Q. So after you stood to make any money from Waste2Energy investments. Right?

A. After I stood --

Q. You weren't getting paid on Waste Energy anymore, were you?

A. No.

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Q. You had no reason to help Charles Vista anymore; right?

A. I had no reason to help? No.

Q. In fact, you had no reason to help Waste2Energy once you weren't getting paid by Charles Vista anymore. Right?

A. No. But I did want to help the investor.

MR. JANGHORBANI: Mr. Chan, can you pull up Division 30? That is in evidence, your Honor.

Q. Do you see this is the e-mail chain between you and Mr. Brown, August 19, 2009?

A. Yes, I do.

Q. You got this e-mail; right?

A. Yes, I did.

Q. You didn't miss this one; right?

A. No, I didn't.

Q. In fact, you responded --

A. Yes.

Q. -- to Mr. Brown?

A. Yes.

Q. "Thanks for the update"?

A. Yes, I see that.

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Q. So you read and understood this e-mail. Correct?

A. Correct.

Q. Thank you.

MR. JANGHORBANI: Mr. Chan, can you bring up Division 65, please?

Q. Mr. Hantman asked you some questions about this document. Right? You remember that?

A. Yes, I do.

Q. You are not copied on this e-mail; right?

A. No, I am not.

Q. You didn't write it or send it?

A. No, I didn't.

Q. You never received it. Right?

A. No, never received it.

MR. JANGHORBANI: Mr. Chan, can you turn to the second page?

Q. Do you see there is a column, third column, that says "Note date."

A. Yes.

Q. No dates before October 1, 2009 in that column, are there?

A. That is just an issue date on the

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note.

Q. There is no dates before October 2009 on that column, are there?

A. Yes, that's correct.

Q. Thank you. You can set that document aside.

MR. JANGHORBANI: May I have one second, your Honor?

(Pause.)

MR. JANGHORBANI: I don't have any additional questions, your Honor.

JUDGE FOELAK: Mr. Hantman?

MR. HANTMAN: Just one point.

RECROSS/REDIRECT EXAMINATION

BY MR. HANTMAN:

Q. The government apparently is predicating part of their case on your intent to make money.

MR. JANGHORBANI: Objection, your Honor. He is simply arguing about what our case is at this point.

JUDGE FOELAK: Let's get to the question.

Q. There were questions that you were

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asked about -- that when you helped these debenture holders it was after you were no longer with Charles Vista. Do you recall that question?

A. Yes, I do.

Q. Yes or no?

A. Yes.

Q. And I think another question was you weren't being paid by – you weren't being paid on any transaction with W2E anymore. Right?

A. That is correct.

Q. Assuming the government is correct that whether you got paid or not has an impact on what you do or don't do –

MR. JANGHORBANI: Objection. I am not sure if it is leading or argument. It is not appropriate.

JUDGE FOELAK: Let's leave the assumption out and just get to the question.

Q. Did you, on October 14, 2009, did you have any idea what, if any, money you would earn from Mr. Rothe?

A. 1 percent of the 18 percent was my fee.

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Q. Was that a motive for you to send this e-mail out?

A. I don't think so.

Q. For Mr. -- for Vishal Goolcharan, did you know whether he had money or didn't have money?

A. Well, I -- I know now he was accredited. I don't know his investment profile.

Q. At the time you sent him the e-mail, was it your intent that you were going to make like a fortune off this guy?

A. No.

Q. So did you have any financial incentive on these particular people out of all the hundreds you could have written to, do you have any incentive to send it to these two people to make a buck?

MR. JANGHORBANI: Objection. This is way beyond the scope of my redirect. I will allow it. Go ahead and answer.

A. I made $150. 1 percent of $15,000 from the Goolcharan investment.

Q. Well, were you motivated by the greed

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of money to send these two e-mails out?

A. No.

Q. Were you driven by greed?

MR. JANGHORBANI: Asked and answered.

JUDGE FOELAK: I have guess he's asking sort of globally.

Q. Were you driven by greed?

A. I'd like to think not.

Q. Were you driven by a need to manipulate?

A. I'd like to think not.

Q. Were you driven by a desire to defraud?

A. No.

MR. HANTMAN: Thank you.

MR. JANGHORBANI: Before the Division rests, your Honor, I was –

JUDGE FOELAK: Do you have any further questions for Mr. Lorenzo?

MR. JANGHORBANI: Yes.

MR. HANTMAN: Certainly I have no objection to the government having a full and fair hearing but aren't we like finished now?

JUDGE FOELAK: He seems to be.

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MR. JANGHORBANI: I have a couple more questions.

MR. HANTMAN: I don't think I did that good a job that he has to continue with more questions.

JUDGE FOELAK: You can have another re, re-cross. Not recross. Re, redirect/cross.

MR. JANGHORBANI: Can I have one second, your Honor, just trying to speed this up?

(Pause.)

MR. JANGHORBANI: I don't have any additional questions for this witness, your Honor.

JUDGE FOELAK: Thank you. You may resume your place.

I wanted to make one comment. It is your Exhibit 132. I notice that Social Security number is on it. Before submitting it as an exhibit you should take anything like home address, date of birth or anything like that out and redact it.

MR. JANGHORBANI: We had taken your comment yesterday to be universal so we will

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scrub the exhibits.

Your Honor, we have two exhibits to

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* * *

JUDGE FOELAK: I would say you should go first. You can mutually agree.

MR. HANTMAN: I think you should go first.

MR. JANGHORBANI: That is fine. It is one o'clock. Maybe we should take a quick lunch break and then have closings if that is acceptable.

JUDGE FOELAK: How long would you like?

MR. HANTMAN: I will defer to the government.

MR. JANGHORBANI: 45 minutes.

JUDGE FOELAK: Sounds good. So quarter of 2.

(Luncheon Recess.)

AFTERNOON SESSION

JUDGE FOELAK: Good afternoon. Mr. Janghorbani?

MR. JANGHORBANI: Thank you, your Honor.

During opening remarks yesterday, your

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Honor, I told the Court there was no genuine dispute, there couldn't be any real dispute that the statements about protection, all of them in Mr. Lorenzo's October

14, 2009 e-mails were false. I also said there is no real dispute, there can't be any real dispute that Mr. Lorenzo knew, knew for a fact that those statements were false before he sent those e-mails.

Now we have heard from Mr. Lorenzo, we have seen all the other evidence in the case and there is still no question about his liability.

Moreover, now that we have heard from Mr. Lorenzo there is no question that he acted with a high degree of scienter and the fact that he continues to refuse to accept an iota of responsibility for his own actions.

Starting with the e-mail, there is no question he sent it. He admits sending it. He admitted yesterday authoring it. He said. "If memory served, I authored it" and that it was approved by others.

It's his e-mail address, he signed it. That's his signature block right there, director of investment banking. There is no question he

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sent it. There is no question each layer was a complete myth.

Mr. Chan, Exhibit 34, please.

And there is no question that he knew. Waste2Energy had nowhere near $10 million in assets on October 14th, confirmed or otherwise. And we know that because it is right there in the company's October 1st amended 8-K and 10-Q. Mr. Lorenzo admits receiving both of those filings and he admits reading them.

He now says, well, I guess I missed this one thing in the filing. I guess I missed that they had written off all their assets. But that is utter nonsense. This is what he had been focused on all summer. We saw him over and over asking Waste2Energy to confirm that these assets still existed.

Now he is saying, well, I guess I missed them because they were buried. But the 10 million write-down, that was on the first page of the audited financials in the 8-K and it was only on the fourth page of the 10-Q.

And just to confirm it, to underline it, Mr. Brown sent him another e-mail on

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October 5th.

That is Exhibit 19, Mr. Chan.

We spent a lot of time looking at this. Once again Mr. Lorenzo has admitted receiving it and reviewing it. Once again he says he missed this, that it was buried. And once again, that is nonsense because it's right there. The first line of point 2. All he had to do was read three lines into this e-mail.

He did read three lines into this e-mail. He knew very, very well that this number had been written off. In fact, Mr. Brown confirmed that when he said he told him by telephone.

So the company didn't try to hide it. They couldn't hide it. It was really the only number that mattered and Mr. Lorenzo knew about it.

Even if he didn't read the 8-K, the 10-Q, and this October 5th e-mail, even if he didn't do that – he did, but even if he didn't it was incredibly reckless, highly reckless for him to send his e-mail without checking that the asset still existed.

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He knew that an audit was going on. Once again, he had been following the progress of the audit. We see that in the e-mail trail. So he knew there was an audit going on, knew the asset number might change. In fact, when he wrote to the company on September 1st he left a blank for what the asset was worth because he knew he didn't know how the company was valuing it. So, it would be extremely reckless for him to send an e-mail saying 10 million in confirmed assets existed without at least checking with the company.

The statement – even if you accept everything Mr. Lorenzo has said, his statement about the $10 million asset is misleading for two other reasons. The two reasons that he knew it was false, that he didn't ever have to read the 8-K for, that he didn't ever have to receive the e-mail from Mr. Brown, because he said that asset was confirmed. He said it provided protection. But he knew all along that wasn't true.

He testified from the stand that he took the 10 million from an old filing, that it

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was unaudited, never been confirmed by an auditor, that it wasn't confirmed by the company, that he knew that. And in fact he had grave concerns about what that asset was worth from the beginning, from March

to April when Waste2Energy became an investment banking client of Charles Vista's.

He said he thought all along the company would never be able to get 10 million for it, that in his mind it was a dead asset, that the company would be lucky to get a million dollars. So he knew it wasn't confirmed, and he knew it provided no protection and he didn't ever have to read the 8-K, the amended 8-K or the 10-Q or Mr. Brown's e-mail to know that, though he did read all of those documents.

He had no business telling anyone that the 10 million existed, that it was confirmed or that it provided any protection. And there is also no question -- 34 again Mr. Chan?

There is no question that his second statement wasn't true, that Waste2Energy did not have $43 million in multiple orders and letters of intent. Mr. Lorenzo knew back in August of

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2009 that the company only had projections, projections that the 43 million was a projection, a non-binding LOI.

Never came to fruition. In fact, Mr. Lorenzo testified that he thought by September that it wasn't going to come to fruition, so he had no business creating the impression that this company had millions in sales and millions in orders let alone creating the impression, just outright saying, as he did, that it protected debentures from default.

The last statement, he says Charles Vista has agreed to raise additional money. He has admitted this

was misleading. It is more than misleading; it is outright false, as we heard from both Mr. Brown and Mr. Lorenzo, because there was no written agreement. There was no agreement between Charles Vista and Waste2Energy to raise additional money and there was no agreement stated in the note. Mr. Lorenzo said that.

In any event it was at a minimum highly misleading. Mr. Lorenzo didn't even believe Charles Vista had the ability to raise

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additional money. And that belief, that was a well held belief.

The company Waste2Energy was highly in debt, needed $4 million just to pay back old noteholders. And Charles Vista had already tapped out their investor base. They had already put 70 percent of the money they managed into Waste2Energy. No reason to think they could find any more.

And Waste2Energy did default on its debt. Mr. Brown told us that too. And Charles Vista didn't raise any money to bail them out as Mr. Lorenzo had promised they would.

So, he knew each of the statements was false when he sent his e-mail. He really can't deny that. Instead, all he says was that he was checked out, that Gregg Lorenzo asked him to send the e-mail, didn't really read it -- despite saying he authored it, he also said he didn't read it so he can't be responsible for his own words.

We know that is not true. One, because he admits authoring it. Two, because Frank Lorenzo admitted under oath in July of

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last year that Gregg Lorenzo never spoke to him about the deal points e-mail, never spoke to him about the subject matter of the deal points e-mail. He also testified that no one ever gave him any false information about the $10 million asset.

So, if no one said anything to him about the e-mail, no one gave him any false information about the asset he couldn't -- he can't say that someone else did this. He did it. He wrote this false information.

We also know he wasn't checked out. We know exactly the opposite was true. The documents show that Mr. Lorenzo was doing his job as director of investment banking, that he was doing it very carefully in summer and fall of 2009. We saw that he kept bugging Waste2Energy to get him the information about the 10 million. "We need to know about this, we need to tell investors about it because that is what is going to sell the securities. What is going on with the asset? Tell me."

We saw this over and over. We know he followed the audit closely. We see e-mails

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about that too. So we know he was doing his job. For him to say he is checked out now is just nonsense. Even if we credit his story, somehow credit he didn't read any of the documents he admitted reading and he

didn't really read the e-mail that he admitted writing -- even if we somehow credit the argument, it doesn't help him.

That is the definition, that is the dictionary definition of recklessness. He closed his eyes to the danger that his statements would mislead investors. Even if you credit everything he has said, minimally he is reckless, and that is sufficient for scienter under Section 10 (b) and Rule 17 (A) (1). 17 (A) (2) and (3) we don't even need to show scienter, just negligence. No question about that.

No one is denying that Gregg Lorenzo is a fraudster. No one is denying he committed fraud. We sued him, and Frank Lorenzo says he knew he was a fraudster. He says as of the summer, the summer of 2009, he understood he was working in a boiler room, that false

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statements -- sorry. That the truth was being stretched, as he said, to clients, to brokerage clients. He knew all of this yet by his own statement he simply accepted an e-mail from Gregg Lorenzo, just accepted it, didn't read it, didn't check it.

Once again, that is reckless. Even if we accept every single thing he said as true, he acted recklessly. And we shouldn't accept it. It's rubbish. He knew for a fact the 10 million asset didn't exist. But even if we accept it, he still acted recklessly.

So he is lying about fundamental aspect of Waste2Energy's business. He said there were millions in assets, millions in orders, lied about fundamental

aspects of the offering. He said essentially it was guaranteed by Charles Vista. "Charles Vista would get you more money to pay you back. Don't worry about it."

He says now he had no reason to do that. First of all, we don't have to prove motive, but he did have a motive. He was hoping to get paid. He says now he only got 1 percent,

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but at the time he was hoping to get between 7 and 9 percent of all the debenture money he raised. He said that from the stand, too. Gregg Lorenzo had promised that.

And Charles Vista, the company he worked at, the company at which he was the director of investment banking and for whom Waste2Energy was essentially their own client, that company was getting 20 percent, nearly 20 percent of all of the money offered in the debenture sales. Charles Vista and Gregg Lorenzo wanted to keep that money coming in. Gregg Lorenzo of course admitted that percentage, that cut was exorbitant, but they wanted to keep it coming in.

Now, were the false statements material? There really can't be any question about that. The 10 million, the truth was that they had less than 4 percent of what Mr. Lorenzo said they had. They had less than 4 percent of 10 million. That is material as a matter of law.

But Mr. Lorenzo has also admitted that it was material. We heard him do that from the

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stand repeatedly. He called it a big deal and a kick in the stomach when the company wrote off the asset. So, we know he thought it was material.

Mr. Brown said it was material, said the write-down was material. And combined with the other so-called layers of protection, what Mr. Lorenzo was doing was he was creating the impression that these debentures, that they were a safe investment because you had multiple layers of protection. If one fell through, you had these other two.

So he took a highly, highly risky bet, a highly risky investment – and he admitted he knew it was highly speculative – and tried to paint the picture it was a sure thing. Of course that is material. Of course that was important.

Now, he has a number of other excuses, the main ones, that he's checked out, we went over that. He's also said that he wasn't soliciting investments. But all you have to do is read the e-mail. That is exactly what it is, a solicitation. He writes, "I am sending you

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this e-mail to tell you, to summarize key points about the offering." He then goes through some of the points, tells you how you are protected and you are not going to lose any money and he says, "Call me with questions." The whole e-mail is a solicitation. That is exactly what he was doing.

Then he also says, "Well, I directed investors to the risk factor section of the PPM. Hey, hey, don't

blame me if I was lying to them here because I said go look over at this other thing, you will figure out how risky it is."

That is of no moment, doesn't make any difference here, doesn't lessen the materiality. One, there is no evidence that the PPM, the private placement memorandum, was ever sent to the investors, to William Rothe or Mr. Goolcharan. At least not to Mr. Rothe. And it doesn't matter because his false statements in the deal points e-mail, they don't contradict anything that is said in the PPM.

The PPM says nothing about the value of the intangible asset. In fact, that is a telling point and he knew that as well. He knew

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that on September 9th the company wasn't giving any value, wasn't saying anything about the value to the investing public. So his statement is not at odds. In fact the 8-K and 10-Q, they discuss the value of the assets as of March and as of June.

He made a misstatement about the assets on October 14th. He doesn't say -- the PPM doesn't say anything about the number of orders, anything about the number of letters of intent, anything about how real those orders may be. It certainly doesn't say anything about Charles Vista's willingness to raise more money. So, they are just not at odds.

But more fundamentally, in a public enforcement action like this one, investors have a right to believe what their broker is telling them. They are

not required to become Sherlock Holmes and sleuth out the truth to figure out if they are being lied to.

It is not a question of whether they relied. It is not a question whether their reliance was justifiable. That is simply not relevant here. The only question is whether the

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false assets would be important to a reasonable investor, and obviously they were. He was saying your investment was safe. He knew that wasn't true.

There is no question about his liability on all counts. And there is really no question about the relief that the Court should impose. The Court should impose third tier penalties. The number of false statements can be arrived at in all number of ways in this case because virtually every statement there under the three layers of protection is false for multiple reasons. Third tier penalties are appropriate, industry bars and cease and desist orders.

His actions were egregious. What he lied about was fundamental to the company and the offering and he knew it. These were fundamental lies. He told them with a high degree of scienter for the same reason. He is still in the industry so he has plenty of important to do it again.

Most critically, your Honor, he refuses to recognize that his actions were

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wrongful. He continues to try to minimize his scienter. When given a chance to come clean he forced the

Division to trial despite the fact that the evidence is overwhelmingly against him. And he has continued to make up excuses at the trial, saying that he didn't pay attention, that he was checked out.

In fact, he had the opportunity to come clean years ago but he chose not to. He was asked by the staff during testimony in November -- on November 12, 2009, less than a month after he sent this e-mail, to explain Charles Vista's business.

Now, this was at a time when he now says he was in constant argument with Gregg Lorenzo, that he understood he worked in a boiler room, that he thought the brokers were stretching the truth with clients, that he wanted to get out. But when asked to explain Charles Vista's business by the staff, under oath, he didn't say any of that stuff. He said he was proud of Charles Vista's work. He said, present tense, at the time, it was a high quality investment bank. And he said that Gregg

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Lorenzo was honest.

So, he could have come clean four years ago but he kept lying. He kept dissembling and he did it to keep working in the industry. So, there is no reason to believe that this won't happen again if he isn't barred.

In sum, your Honor, there is no question about Mr. Lorenzo's liability and there is no reason to believe he regrets anything other than getting caught.

Thank you very much.

MR. HANTMAN: Your Honor, a very thorough presentation, and I would think that is probably the argument made on almost all of these fraud cases. In fact, it could have been the same argument with Sera Holmes. She wrote the exact same e-mail. She is not here today.

It could have been a statement against Michael Molinaro, the government's own exhibit, Division Exhibit 77, which you have in front of you, that is dated October 14, 2009. That is like the same day that the e-mail went out. And Molinaro, who is the compliance officer -- and this is really inexcusable. He sends an e-mail

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to all the brokers -- this is the government's exhibit. He sends something to all these brokers saying this could be sent out to the public, and on page number 4 it has total assets as of June 30, 2009, $14 million.

This is the government's exhibit. Okay? On the same day the chief compliance officer is sending something out, Sera Holmes is sending something out. This is like selective prosecution.

I am not saying that they are wrong to police the industry. They should be praised and lauded for going after people in the industry. The reason they are going after Francis Lorenzo is, unlike Molinaro and probably unlike Holmes, Mr. Lorenzo, they have the advantage of having their primary witness being Mr. Lorenzo. Without Mr. Lorenzo as the witness they would have no case.

They could have conjecture, they could have supposition but they wouldn't have a case. This is like probably one of the only cases in history where the government's case is built almost entirely, entirely on the respondent.

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To put this in the right context, the government gives Mr. Lorenzo much, much too much credit. They are giving him much too much credit because he is described as -- "he knows how to paint the picture." These aren't my words. This is counsel's words. He knows how to paint the picture, conjured up he is some kind of financial fraudster genius.

"He kept dissembling," as if there is some kind -- as if this gentleman -- you heard him testify. You saw him. You will make your own judgment as to his intelligence, his convictions, his integrity. I think he is anything other than some great dissembler of information.

Certainly I don't think he is -- I won't say capable. I think it is clear he is not trying to paint a picture. You talk about -- this was to mislead investors? Well, let's call a spade a spade. Mislead investors? There is two people here. Two people. One who didn't even open this letter; it was in spam. And the other person, we don't know all the details, okay?

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And I am not minimizing that what Lorenzo did I think was negligent. I won't even say negligent. It was inappropriate. It should not have been done. But I don't think for a second it is Mr. Lorenzo's position

from the beginning that he doesn't recognize responsibility, that he doesn't recognize what was done, in hindsight, he would not have done.

How could the government say that? He's the one who testified for them. If he is such a dissembler of information, he is a genius in painting pictures, he is some material fraudster who is misleading investors -- why would he show up -- this is his fourth time. They are not really relying on anything he said on 11/12/2009. There is not really any evidence, any material evidence.

On 12/16/2009 he was interviewed again under oath. I don't think there is any real evidence there the government is relying upon.

On 3/10/2010 again they had the chance, you know, to go at him. And believe me, they are fine lawyers. There is more than one lawyer involved. Sometimes there are two, three

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lawyers there.

We are talking about the fourth time. The fourth time they speak to Mr. Lorenzo, whom they paint a picture which you may apply to certain people on Wall Street but I don't think it applies to Mr. Lorenzo. The fourth time this great dissembler of information, this guys who is not recognizing what he did was wrong, he comes to a hearing without a lawyer.

Is that like a deceptive act? Is that something that somebody who knows he did something wrong is going to go, to a deposition or hearing in front of the

SEC with highly qualified attorneys and not have a lawyer?

To suggest that he thinks he did nothing wrong, that he is not accepting any liability for what he did -- I think the whole government's case is based upon his testimony on July 26th.

So on the one hand they are saying the man lies, he schemes. At the same time they are relying upon what he said during the testimony. And the testimony -- when they said, "Did you send these e-mails?" He could have said, "I

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don't know." "I don't recall." "No."

He told the truth. "Yes, I sent them." Is that the mark of a genius or some guy who has an intent, a scienter to defraud people?

He is asked the question, was this true? Was this true? Was this true? And at this point -- and his testimony speaks for itself. He said some of these things, you know, he didn't think were true.

They asked the question. It wasn't true then, or now? And even the government was a little bit confused as to what he meant. And he said, "I can't say for sure I didn't know then." That is really what he said. Maybe not those exact words but you have the transcript in front of you, it wasn't that he said, "Yes, I knew at the time I sent these it was wrong."

He never said that. He said, "I can't say now that I didn't know then." Okay? So what does the government have? Some ambiguity as to what he knew

then and his motive as to why he did what they say he did.

So what do they do? And I am not criticizing them. They have done, I think, a

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highly effective job at trying to take something which really is a second thought -- if it wasn't for Gregg Lorenzo and Vista, Francis Lorenzo wouldn't even be here. Or Molinaro. He should be here; okay? Or Holmes should be here; okay? But it was because of Gregg Lorenzo that all this time and this money was spent on investigation.

Again, the government is to be applauded. I am not here to apologize on behalf of any of the defendants. But I think in this particular situation when you look at Mr. Lorenzo, I don't think you can look at it in the abstract or in a vacuum. I have every confidence that your Honor, hearing these cases day in and day out, you get a sense of who is sharp and who knows what they are doing and who is consciously defrauding people and trying to make a buck and trying to cover it up and shift responsibility and have high priced lawyers who they can afford to pay because they are making a fortune off the public.

I think this Court certainly has the ability to say to themselves, this guy is like a

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relatively -- I won't say pathetic guy, but he is a guy who got involved with people who are like wolves, who were very cunning and sort of used him and mistreated

him and created a situation where he did something which was stupid.

But I don't think it rises to the level of scienter where he decided on October 14, 2009, "Well, today is a beautiful day. Who can I defraud? Who can I send an e-mail to so I can make a buck today? Oh, I get it. Let me send it to some guy in South America --" wherever the guy is, "-- and let me send it to somebody else. I don't know these people. I am not a registered agent with these people. I have no idea what they know. I am going to pick these two people because this is my goal to get rich. This is my -- I have been waiting my whole life to send two e-mails to two people I don't even know, it is not my job."

Then to suggest that this was some scienter, he had a plan, he knew it was material misrepresentations, he was going to trick these people? Well, if that was his plan, why didn't

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he follow up with another e-mail? I am sure he could have gotten their phone number and called them up. If this was an opportunity to mislead investors and make a big buck, these were not the right people to go after.

Clearly the fact of who he sent this to, who they are and the fact he had little or no contact with these people doesn't lend itself to believe that he had the requisite intent to defraud these people. It is consistent with the fact that Gregg Lorenzo told him to send it out; he sent it out. There is no follow-up, no rhyme, no reason.

Frankly, it is like stupidity. It is laziness maybe. Maybe it is irresponsible. But I don't think -- of course, you will make the final decision. I don't think this particular case raises to that level.

Now let's go a little bit further. I think most people who come before this Court -- it is a very serious Court -- it is usually not like their first time I would think. Maybe once in a while it is a first time, but Gregg Lorenzo, he had a whole history of problems.

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Certainly the government does a thorough job. In all the years that Mr. Francis Lorenzo has been in business, his testimony, other than one FINRA thing which I don't know the details of, no one has ever gone after him. He has never been a target.

Since 2009 -- it is 2013 now. As far as he's out there, he is like lurking, he can do stuff and go after the public again? No one has come forward and said he is doing anybody any ill or defrauding people.

He is making a living, he is not with Charles Vista, he is not with John Thomas. Finally he found a home. He found a legitimate place where he is not doing like retail sales. It seems like he is doing more investment banking. It is not the toxic environment from which he came.

For once he probably found a position which lends itself to his abilities and even his frailties, because around the sharks, he will be eaten up. There is no question. I mean, you talk about sharks? This guy doesn't even have a life preserver. He goes to hearings without any

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lawyer. That could really be a plan, that it was his intent, as suggested by the government that during the whole course of this proceeding he's misled people and has not taken responsibility?

I saw the letters he wrote to your Honor. I see some of the communications he had with the government. He is like a pathetic figure who is trying to, you know, hire somebody to represent him without any money.

I think for the government to selectively go through different documents -- they have a hundred some documents here. There is how many? Probably 50 or 60 documents. If this case were so simple and so obvious, so blatant, do you need 60 exhibits? What the government is doing -- and I am not blaming them. Like I said, they have done a thorough job because they prepared to go after Gregg Lorenzo and Charles Vista. He is the money guy, he is the guy with the high-powered, excellent lawyers. They were going to go after him but that resolved itself so that is why we are here.

Should Mr. Francis Lorenzo have maybe

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talked to them sooner? Should he have maybe cooperated, which -- they say he didn't cooperate but obviously he showed up when he was supposed to show up and gave testimony. They like his testimony, or some of his testimony.

Maybe he could or should have done something, but is that a reason to go after him with more of a

vengeance? I would think not. I would think that it shouldn't be held against him that he either had ineffective counsel or not competent counsel or maybe he had great counsel but he didn't keep the counsel, you know?

Or should it be held against him that this case has gone this long or this far? It really didn't go this long or this far because of Francis Lorenzo. It went this long and this far because the government was going after Gregg Lorenzo. And they settled with him just recently. It wasn't a long time ago.

So there is not all this money spent and resources and energy because of this action. This is just like a sideshow. It is an important show. I think when you look at all –

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now the explanation for what happened -- I mean, I don't think you can say he doesn't accept responsibility. He was on the stand and he said, "I did this because of this. I didn't spend too much time thinking about it. I was wrong. I wish I had never done it. I made a mistake. I am sorry:

He said that. What does the government want him to do? I don't know what they want. They are arguing that somehow he should be disbarred and there should be three tier penalties and all the cease and desist because he doesn't accept responsibility?

Well, you will make the final decision as to whether this gentleman is arrogant and egotistical or whether he is a person who made a mistake.

The first time he is done anything, that he is even accused of anything at this level. Certainly I would ask that the Court look at the totality of circumstances to see whether in this situation with this particular individual, given the fact that he was -- he is so far removed from these people who he

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supposedly made these material misrepresentations to.

If this was part of some scheme or something, why would he limit it to these two? He has a list. There is a list in this book here of hundreds of people who put money into the company. If this was the kind of thing, as the government would have this Court believe, why didn't he just send that e-mail out to Benkovsky and all those people? Those people would have had much more motivation to put more money in at that time if they had gotten this information.

So this is really an aberration. If this was a federal criminal case I think it could be seen as an aberration. It is not consistent with what the respondent does day in and day out.

I can go on and on but really it is not for me to argue with this Court or trying to convince you. You are way more competent than me to come to a conclusion. I am not going to go on and on and on. I think I am just responding to the government's position and I

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would hope, and on behalf of my client, thank you for the time you have taken to hear this case.

We would ask that you ultimately -- I know you are going to want submissions -- but make a finding based upon the facts and the preponderance of the evidence. All of the statements as to what he knew and he did this and did that and did this, I believe, is conjecture. I think the government -- maybe they are right, maybe they are wrong, but I think if it is 50/50 this Court would find that the government has not reached the level which they are required to reach.

Based upon that we'd ask that you come back with the decision consistent with the law and the facts and the reality of the situation.

Thank you, your Honor.

JUDGE FOELAK: Okay. Thank you.

As you reference, post-hearing briefs are appropriate. Has there been any consideration of whether you would file simultaneously or sequentially and what dates?

MR. JANGHORBANI: There hasn't been.

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I would propose we file simultaneously end of October, since we are at end of September.

* * *

Div. Ex. 34

From: Francis Lorenzo [Florenzo@charlesvista.com] on behalf of investmentbanking [investmentbanking@charlesvista.com]
Sent: Wednesday, October 14, 2009 3:33 PM
To: vishal.goolcharan@ **Redacted**
Subject: W2E Debenture Deal Points

Dear Sir:

At the request of Adam Spero and Gregg Lorenzo, the Investment Banking division of Charles Vista has summarized several key points of the Waste2Energy Holdings, Inc. Debenture Offering.

******Please read the Offering Memorandum, including all "Risk Factors"******

12-month Note, Debenture pays a 12% interest rate, paid quarterly

A sinking fund has been created, handled by 3rd party (SRFF attorney). Interest payment amount will be held in the sinking fund

This is senior debt. There is no other debt (other than simple debt). These debenture holders have to approve (51%) any other debt.

If there is a liquidation, these debenture holders get paid first.

There are 3 layers of protection:

(I) The Company has over $10 mm in confirmed assets

(II) *The Company has purchase orders and LOI's for over $43 mm in orders*

(III) *Charles Vista has agreed to raise additional monies to repay these Debenture holders (if necessary)*

Debenture Holders have the option to convert their debt at $1.00 into common stock. These shares would hove been already added to the Registration Statement

Debenture Holders will receive a 3-year warrant to purchase shares of the company's stock at $2.00 per share. Debenture Holders will receive this warrant regardless if they convert or not.

Please call with any questions-

Truly,

Francis V. Lorenzo
Vice President - Investment Banking
Charles Vista, LLC.
100 William Street
18th Floor, Suite 1820
New York, NY 10038
Direct: 646.422.3113
Toll Free: 800.799.9070
Main: 212.690.6000

From: Francis Lorenzo [Florenzo@charlesvista.com]
Sent: Wednesday, October 14, 2009 3:37 PM
To: wsrothe@ **Redacted**
Subject: W2E Debenture Deal Points
Attachments: image001.gif

Dear Sir:

At the request of Gregg Lorenzo, the Investment Banking division of Charles Vista has summarized several key points of the Waste2Energy Holdings, Inc. Debenture Offering.

******Please read the Offering Memorandum, including all "Risk Factors"******

12-month Note, Debenture pays a 12% interest rate, paid quarterly

A sinking fund has been created, handled by 3rd party (SRFF attorney). Interest payment amount will be held in the sinking fund

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Please call with any questions-

Truly,

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